Schoharie County Board of Supervisors
P.O. Box 429, County Office Building
Schoharie, NY 12157
Phone: (518) 295-8347 Fax: (518) 295-8482

William Federice
Chairman

Harold Vroman
Vice-Chairman

March 2, 2021

The following is a report of the major items discussed by the Schoharie County Law Enforcement Review Committee as mandated by Executive Order 203 since the first meeting on September 1, 2020 through February 27, 2021. This report is the result of a collaborative effort of the Board of Supervisors Law and Judicial Committee, the Sheriff's Department and citizen appointees to the Committee. Equally vital to the success of our efforts was the participation of interested citizens who contributed greatly to the discussions.

The report includes the consensus findings and recommendations of the Committee. Included are additional comments or suggestions from interested members of the public or law enforcement who were invited to provide them for inclusion in the Report. The Report will be presented to the public for the purpose of hearing comments and asking questions of the Committee in the Board of Supervisors Chamber at the County Office Building at a Public Hearing on March 16, 2021 at 5:00 PM and continuing on March 19, 2021 at 9:00 am for consideration by the Board of Supervisors for adoption or further revision.

Bill Federice, Chairman
Schoharie County Board of Supervisors

Schoharie County Law Enforcement Review Committee
Report of Major Topics Discussed and Recommendations Regarding Adoptions of Changes

1. Portable Audio/Video Recorders (Body Cams) – Schoharie County Sheriff's Office Policy 424 addressing body cams is in compliance with New York State Law and regulations. Further changes could impact the response time for urgent situations and may endanger law enforcement.

2. Citizens Collaborative Committee (or name TBD) – As discussed and agreed by the Sheriff's Office at the February 9, 2021 Law Enforcement Review Meeting and further discussed at the February 16, 2021 meeting, a Citizens Collaborative Committee (CCC) will be established for the purpose to meet quarterly to discuss law enforcement issues as it relates to the Schoharie County Sheriff's Office. As appropriate, the CCC will report to the Schoharie County Board of Supervisors Law Enforcement and Judicial Committee any findings or recommendations. If accepted by the Law Enforcement and Judicial Committee, the recommendations will be forwarded to the full Board of Supervisors for comments and/or adoption. The CCC will consist of five Schoharie County citizen members appointed by the Board of Supervisors to two-year terms, the Sheriff and/or his/her designee, one member of the Board of Supervisors outside of the Law Enforcement Judicial Committee and Legal Defense of Indigents Administrator.
    a. Rural Awakenings recommendations - Citizens Collaborative Committee / Citizens Advisory Committee (or name TBD) – As discussed and agreed by the Sheriff's Office at the February 9, 2021 Law Enforcement Review Meeting and further discussed at the February 16, 2021 meeting, a Citizens Collaborative Committee (CCC) will meet quarterly for the purposes of reviewing compliance with the County EO 203 Plan and discussing law enforcement issues as they relate to the Schoharie County Sheriff's Office. The CCC should report to the Law Enforcement and Judicial Committee any citizen's complaint that they are aware of, review the data noted below as well as review policies of the Sheriff's Office as needed. It is important that progress on the Plan be reviewed to identify what is and is not working and adapt strategies accordingly. As appropriate, the CCC will report to the Schoharie County Board of Supervisors Law Enforcement and Judicial Committee any findings or recommendations. If accepted by the Law Enforcement and Judicial Committee, the recommendations will be forwarded to the full Board of Supervisors for comments and/or adoption or to the Sheriff, as applicable. The CCC will consist of five Schoharie County citizen members appointed by the Board of Supervisors to two-year terms, to be reflective of diverse communities within the county; the Sheriff or his/her designee; and one member of the Board of Supervisors outside of the Law Enforcement Judicial Committee.
    b. Pastor Ray Richards recommendations – I believe all involved agree that it is imperative to keep the dialogue going. Trust is best built through dialogue and relationship. In our discussions, there was a concern raised by some that quarterly meetings may put a strain on the time and resources of law enforcement and

governmental personnel. Perhaps compromise language could be offered that requires meeting at *least* semi-annually to *foster dialogue*, discuss law enforcement issues, review policies of the Sheriff's Office as needed, review arrest data, address concerns, and make recommendations to the Law Enforcement and Judicial Committee.

c. Sheriff Stevens – would like it to read "The CCC will consist of five Schoharie County citizen members appointed by the Board of Supervisors to two-year terms, the Sheriff and/or his/her designee, and one member of the Board of Supervisors from the Law Enforcement and Judicial Committee".

3. Law Enforcement Data Information – Once available, the Schoharie County Sheriff's Department and Citizens Collaborative Committee will review arrest data collected by the Court systems. The data will be accessed on the public websites of the Division of Criminal Justice Services and the Office of Court Administration mandated by the State under the New York State Police Statistics and Transparency Act enacted June 2020. It is recognized the usefulness of the data will be subject to the quality and timeliness of what the State provides.
    a. Rural Awakenings recommendations - Once available, the Schoharie County Sheriff's Department and Citizens Collaborative Committee will review arrest data collected by the Court systems and arrest data collected by the Sheriff's Office. The Court system data will be accessed on the public websites of the Division of Criminal Justice Services and the Office of Court Administration as mandated by the State under the New York State Police Statistics and Transparency Act enacted June 2020. It is recognized the usefulness of the data will be subject to the quality and timeliness of what the State provides. The intent of these analyses is to measure the impact of county policing on diverse members of the community, particularly those historically underrepresented and overly impacted.
    b. Pastor Ray Richards recommendations – To the degree that it is possible to obtain the date, I believe all involved agree that it is important to review arrest data to ensure that all members of our community are treated equitably and justly.

4. De-escalation Training and Use of Force - The current Schoharie County Sheriff's Office Policy 300 addressing use of force is in compliance with Federal and New York State Law and regulations.
    a. Rural Awakenings recommendations - The current emphasis on de-escalation training shall be continued and supported by the county. Funding for such training is essential and should be allocated by the relevant government body.
    b. Pastor Ray Richards recommendations – I believe it's important that we recommend regular ongoing de-escalation and implicit bias training, as well as continued imperatives that require officers to both intervene when they see the use of excessive force and to report it to their supervisor. As Sheriff Stevens noted in one of our meetings, the person who is most effected negatively by one bad cop is the one good cop. Accountability and transparency are essential to building trust in the community.
    c. Sheriff Stevens recommendations – Suggests eliminating "Further changes could impact the safety of the law enforcement officer". Suggests including "Annual De-escalation and Use of Force training will be conducted".

5. Use of Energy Conducted Weapon (Taser) - The Schoharie County Sheriff's Office Policy 304 as amended and presented to the Law Enforcement Review Committee February 16, 2021 contains an update stating any use of must be preceded by a verbal warning, unless it would endanger the safety of deputies. No further action needed in this area.
    a. Sheriff Stevens recommendations – suggests it reads "The Schoharie County Sheriff's Office Policy 304 as amended and presented to the Law Enforcement Review Committee February 16, 2021 contains an update stating any use of must be preceded by a verbal warning, unless it would endanger the safety of deputies or other non-law enforcement personnel".

6. Use of Force - The current Schoharie County Sheriff's Office Policy 300 addressing use of force is in compliance with New York State Law and regulations. Further changes could impact the safety of the law enforcement officer.
    a. Sheriff Stevens recommendation – Maybe eliminate this as it is contained in #4.

7. Access to High Quality Mental Health Services for Officers – The practice of providing high quality mental health to all county law enforcement is currently in place and all personnel are strongly encouraged to seek assistance, as necessary.
    a. Rural Awakenings recommendations - Not only should officers continue to have access to high quality mental health services, but the department shall continue to foster and strengthen a work environment that encourages and normalizes use of such services.
    b. Pastor Ray Richards recommendations – Access to High Quality Mental Health Services for Officers. In conversations with law enforcement personnel through this process, I have become convinced of the absolute necessity of this provision. Normalizing mental health services and encouraging their use will provide a valuable tool in addressing issues before they present a problem in the field. I would also recommend the inclusion of a faith-community component here as well. Clergy can provide a safe place for law enforcement personnel to address personal struggles in a confidential environment.
    c. Pastor Ray Richards recommendations – Access to High Quality Mental Health/Drug Rehab Services. Although not a major point of discussion in our committee meetings, I believe it is worth noting and pursuing adequate resources for those in the criminal justice system that may better be served by quality mental health and alcohol/drug rehabilitation programs than incarceration. The Drug Court program in Schoharie County is one such avenue and should be strongly supported. I believe it's important to focus on redemptive programming where possible that addresses underlying mental health/drug and alcohol issues, while at the same time protecting the community from those who would seek to do it harm.
    d. Sheriff Stevens recommendation – Add this sentence, "Schoharie County Sheriff's Office is developing a Certified Peer Support Team to further assist those who need assistance".

8. Clearer imperatives that require officers to both intervene when they see use of excessive force and the requirement to report use of excessive force - Intervention and the reporting of excessive use of force is the practice of the Schoharie County Sheriff's Department.

a. Rural Awakenings recommendation - Studies indicate two of the most important deterrents to excessive use of force are intervention by other police officers and reporting excessive use of force by fellow police officers. The County Sheriff's Department policy has a clear imperative to intervene when observing excessive use of force. The requirement to report excessive use of force is less clear and opens the door to under-reporting such incidents. The Sheriff's Department should clarify the language of the policy to reinforce the need to report.
b. Pastor Ray Richards recommendations – I believe it's important that we recommend regular ongoing de-escalation and implicit bias training, as well as continued imperatives that require officers to both intervene when they see the use of excessive force and to report it to their supervisor. As Sheriff Stevens noted in one of our meetings, the person who is most effected negatively by one bad cop is the one good cop. Accountability and transparency are essential to building trust in the community.

9. Banning of chokeholds – Chokeholds are outlawed in New York State. The Sheriff's Department Deputies, who have been trained in their use, are authorized to use a carotid hold as a less than lethal method of subduing a potentially dangerous or violent individual.

a. Pastor Ray Richards recommendations – regarding the Carotid Hold; after listening to the concerns raised by the community and the explanations provided by law enforcement personnel, I believe this practice should be permitted as a tool for law enforcement by those specifically trained in the practice to subdue a potentially dangerous or violent individual.

b. Sheriff Stevens recommendations – add "when the use of deadly physical force is warranted" at the end of the sentence.

10. Replacement of the concept of imminent danger with the use of immediate danger - Waiting for an imminent danger situation to escalate to one of immediate danger can be the difference between a non-lethal event and a lethal one due to the potentially extremely short amount of time it can progress to an immediate danger.

a. Pastor Ray Richards recommendations - I believe it's important that law enforcement personnel have the tools they need to carry out their jobs. To that end, I support the policies as discussed/amended in the committee meetings and recommend they be adopted. I also do not recommend replacing the concept of imminent danger with the use of immediate danger. Given how fast a situation can change, I believe officers need the discretion and flexibility to make on-the-spot decisions to save lives and address dangerous situations.

Additional recommendations from Rural Awakenings:

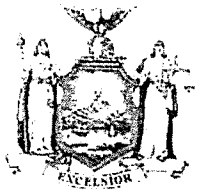
- Transparency - Policing policies and practices require transparency to earn public trust. Transparency means that the police department provide information to the public upon

request in all police events. Transparency should include policies, officers' disciplinary records, body camera recordings, other pertinent material, and complaints. Complainants must have the ability to review results of their complaint. Transparency must also be timely. NYS law now requires the release of disciplinary records through FOIL request; agencies should fully comply, in the spirit of transparency.

- Implicit Bias Training - The Sheriff's Department shall continue to provide and the County shall support adequate and substantial training specifically focusing on implicit bias, and it shall be repeated/updated regularly, at least annually. Funding for such training is essential and should be allocated by the relevant government body.
- Police Culture - A police culture that does not tolerate misbehavior, and holds officers accountable should continue to be fostered, supported, and promoted. This includes peer accountability and support, re-training when necessary, and firing and/or bringing criminal charges when appropriate. Leadership must be role models and enforce policies.

Additional recommendations from Pastor Ray Richards:

- LEAD Program – This type of pre-arrest diversion program that seeks to address issues before they reach the criminal justice system is a key component for moving forward. The recent addition of a faith-community resource to this program will only enhance its ability in my opinion. Sufficient resources should be allocated to this program to ensure its continued and expanded effectiveness.
- Development of a multi-agency critical incident response team – Investigator Baker mentioned the formation of this response team during the course of the committee meetings. I believe such a response team is s key component and should be pursued. I also believe that clergy trained in trauma would be a valuable asset to this team. As we saw in the incident from October 2018, Schoharie clergy provided invaluable support, encouragement, and comfort the process.



State of New York
Executive Chamber
Albany 12224

Andrew M. Cuomo
GOVERNOR

August 17, 2020

Dear Chief Executives, Police Chiefs, and Sheriffs:

Many communities all across the country are dealing with issues concerning their police departments. The millions of people who gathered in protest, even in the midst of a public health crisis, made that clear. The situation is unsustainable for all.

Maintaining public safety is imperative; it is one of the essential roles of government. In order to achieve that goal, there must be mutual trust and respect between police and the communities they serve. The success and safety of our society depends on restoring and strengthening mutual trust. With crime growing in many cities, we must seize this moment of crisis and turn it into an opportunity for transformation.

While the conflict is real and the issues are complicated, we know in New York that denial or avoidance is not a successful strategy. To that end, on June 12, 2020, I signed an Executive Order requiring each local government in the State to adopt a policing reform plan by April 1, 2021. The Order authorizes the Director of the Division of the Budget to condition State aid to localities on the adoption of such a plan.

To ensure these plans are developed through an inclusive process, I called for the New York State Police Reform and Reinvention Collaborative. With more than 500 law enforcement agencies in our large and diverse state, there is no "one size fits all" solution. To rebuild the police-community relationship, each local government must convene stakeholders for a fact-based and honest dialogue about the public safety needs of their community. Each community must envision for itself the appropriate role of the police. Policies must be developed to allow the police to do their jobs to protect the public and these policies must meet with the local communities' acceptance.

"Collaborative" is the key word. It would be a mistake to frame these discussions as an adversarial process or an effort to impose top-down solutions. Issues must be aired but solutions must be crafted. The collaborative process should:

- Review the needs of the community served by its police agency, and evaluate the department's current policies and practices;
- Establish policies that allow police to effectively and safely perform their duties;
- Involve the entire community in the discussion;
- Develop policy recommendations resulting from this review;
- Offer a plan for public comment;
- Present the plan to the local legislative body to ratify or adopt it, and;
- Certify adoption of the plan to the State Budget Director on or before April 1, 2021.

I urge everyone to begin these discussions immediately. Restoring the relationship between the community and the police is in everyone's best interest, and conversation may be required to enable each stakeholder to understand others' points of view. Time is short.

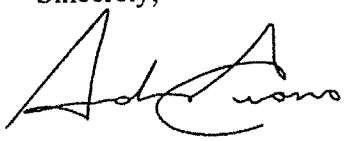
Local elected officials are the natural position to convene the process. If the local electeds are unable or unwilling to manage the collaborative, the state can select an appropriate convener for that jurisdiction.

Change is hard. But change is necessary if we are to grow. The tension must be resolved. Order and public safety must be ensured. I am excited by the possibilities and I am hopeful that this time of crisis will evolve into a moment of creativity and progress. It is normal to make adjustments to fit changing values and circumstances.

We are addressing the COVID crisis by acknowledging the problem, having productive dialogue and by working together. Let's do the same here.

This is an opportunity to reinvent law enforcement for the 21st century.

Sincerely,



ANDREW M. CUOMO

State of New York

Executive Chamber

No. 203

EXECUTIVE ORDER

NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE

WHEREAS, the Constitution of the State of New York obliges the Governor to take care that the laws of New York are faithfully executed; and

WHEREAS, I have solemnly sworn, pursuant to Article 13, Section 1 of the Constitution, to support the Constitution and faithfully discharge the duties of the Office of Governor; and

WHEREAS, beginning on May 25, 2020, following the police-involved death of George Floyd in Minnesota, protests have taken place daily throughout the nation and in communities across New York State in response to police-involved deaths and racially-biased law enforcement to demand change, action, and accountability; and

WHEREAS, there is a long and painful history in New York State of discrimination and mistreatment of black and African-American citizens dating back to the arrival of the first enslaved Africans in America; and

WHEREAS, this recent history includes a number of incidents involving the police that have resulted in the deaths of unarmed civilians, predominantly black and African-American men, that have undermined the public's confidence and trust in our system of law enforcement and criminal justice, and such condition is ongoing and urgently needs to be rectified; and

WHEREAS, these deaths in New York State include those of Anthony Baez, Amadou Diallo, Ousmane Zango, Sean Bell, Ramarley Graham, Patrick Dorismond, Akai Gurley, and Eric Garner, amongst others, and, in other states, include Oscar Grant, Trayvon Martin, Michael Brown, Tamir Rice, Laquan McDonald, Walter Scott, Freddie Gray, Philando Castile, Antwon Rose Jr., Ahmaud Arbery, Breonna Taylor, and George Floyd, amongst others,

WHEREAS, these needless deaths have led me to sign into law the Say Their Name Agenda which reforms aspects of policing in New York State; and

WHEREAS, government has a responsibility to ensure that all of its citizens are treated equally, fairly, and justly before the law; and

WHEREAS, recent outpouring of protests and demonstrations which have been manifested in every area of the state have illustrated the depth and breadth of the concern; and

WHEREAS, black lives matter; and

WHEREAS, the foregoing compels me to conclude that urgent and immediate action is needed to eliminate racial inequities in policing, to modify and modernize policing strategies, policies, procedures, and practices, and to develop practices to better address the particular needs of communities of color to promote public safety, improve community engagement, and foster trust; and

WHEREAS, the Division of the Budget is empowered to determine the appropriate use of funds in furtherance of the state laws and New York State Constitution; and

WHEREAS, in coordination with the resources of the Division of Criminal Justice Services, the Division of the Budget can increase the effectiveness of the criminal justice system by ensuring that the local police agencies within the state have been actively engaged with stakeholders in the local community and have locally-approved plans for the strategies, policies and procedures of local police agencies; and

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, in particular Article IV, section one, I do hereby order and direct as follows:

The director of the Division of the Budget, in consultation with the Division of Criminal Justice Services, shall promulgate guidance to be sent to all local governments directing that:

Each local government entity which has a police agency operating with police officers as defined under 1.20 of the criminal procedure law must perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color.

Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program.

The political subdivision, in coordination with its police agency, must consult with stakeholders, including but not limited to membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials, and create a plan to adopt and implement the recommendations resulting from its review and consultation, including any modifications, modernizations, and innovations to its policing deployments, strategies, policies, procedures, and practices, tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing.

Such plan shall be offered for public comment to all citizens in the locality, and after consideration of such comments, shall be presented to the local legislative body in such political subdivision, which shall ratify or adopt such plan by local law or resolution, as appropriate, no later than April 1, 2021; and

Such local government shall transmit a certification to the Director of the Division of the Budget to affirm that such process has been complied with and such local law or resolution has been adopted; and

The Director of the Division of the Budget shall be authorized to condition receipt of future appropriated state or federal funds upon filing of such certification for which such local government would otherwise be eligible; and

The Director is authorized to seek the support and assistance of any state agency in order to effectuate these purposes.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twelfth day of June in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

Law Enforcement Review Committee Meeting Minutes

February 16, 2021

February 9, 2021

January 26, 2021

January 19, 2021

January 12, 2021

January 5, 2021

December 15, 2020

December 1, 2020

November 17, 2020

November 2, 2020

October 20, 2020 – Office of Community Services

October 20, 2020 – Social Service Presentation

October 6, 2020

September 1, 2020

Schoharie County Law Enforcement Review Committee (LERC)

February 16, 2021

Attendees: please see attached roster

Meeting called to order at 3:05 p.m.

Chairman Federice – Today we will recap five areas, which include 3 updated policies (attached). The updated policies were sent out via email to this group on 2/10/21.

1. Body Cameras
2. Citizen Review Board
3. Tracking Law Enforcement Engagements
4. De-escalation training
5. Use of Energy Conducted devices (Taser).

We will also finalize the 7 recommendations from the public, which are:

1. Access to high quality mental health services for officers with departmental normalization of such services.
2. Clearer imperatives that require officers to both intervene when they see use of excessive force and the requirement to report use of excessive force.
3. Clearer imperative that body cams be turned on and operating at all times when force of any kind may be used.
4. Banning of chokeholds.
5. Inclusion of the concept of the use of reasonable, proportional, and necessary force in Use of Force policies.
6. Adoption of higher standard than "objective reasonableness" in Use of Force policies.
7. Replacement of the concept of imminent danger with the use of immediate danger.

We will put a report together indicating that we have accepted the Sheriff's Department policies as presented to this committee and we will add all your concerns.

Sgt. Reinhart – We have been wearing body cameras now for about 18 months. The change was tough at first, but we quickly adapted. We were aware of the necessity and it has now become almost second nature. We have reached a policy that works best for our department. We look at these policies from a different perspective.

Ms. Paden – Why wouldn't you follow the new law/legislation for the NYS Police?

Sgt. Reinhart – Policies are by agency. What works for us may not work for others. It is easy for them to say anything, but they aren't the ones that have to wear them. This is a living document and will be continually changing as needs arise.

Chairman Federice – Regarding the Citizen's Review Board, I followed up with the County Attorney, Mike West. He advised that this will be strictly advisory, as all the decision-making lies with the legislative body. I will read Pat Hults email:

"Schoharie County Law Enforcement Citizen Review Board (or another name TBD) – The Schoharie County Board of Supervisors shall appoint an advisory board composed of (Number TBD) Schoharie County citizens, one member of the Board of Supervisors and a representative of the Sheriff's Department for a term of _____.

The mission of the Citizen Review Board will be to review the Schoharie County Sheriff's Departments' policies, practices, and procedures as appropriate and to offer recommendations regarding any changes to the Board of Supervisors.

The Citizen Review Board will also periodically review and measure compliance with the recommendations and plan passed by the Board of Supervisors as a result of EO203.

The Citizen Review Board should report to the Law Committee any citizen's complaint that they are aware of and develop a forum for feedback from the community.

The CRB should review the demographic data and the Sheriff's Department's analysis of the data as it becomes available from the Division of Criminal Justice Services and Office of Court Administration.

The Citizen Review Board shall meet quarterly and maintain minutes of the topics discussed with any recommendations for consideration by the Law Enforcement and Judicial Committee. Recommendations will be considered by the Law Enforcement and Judicial committee for further deliberation by the full Board of Supervisors."

Sgt. Reinhart – An important piece is the scope of the group and the membership. I believe the scope needs to be more narrowly defined.

Chairman Federice – I would suggest 5 community members, 1 member from the Board of Supervisors and 1 representative of the Sheriff's Department.

Sgt. Reinhart – I would like a different name. Maybe Community Engagement. Keep the community engaged.

D.A. Mallery – I have an issue with citizens on a review board that have no background in the subject matter. What authority would they have?

Chairman Federice – No authority at all! We are just keeping with the spirit of EO203.

Ms. Paden – I do agree that a different name is probably appropriate.

Sgt. Reinhart – A review board is appropriate in places where the Police Chief is appointed by the mayor. Because the Sheriff is elected by the people for the people, I think Community Engagement is more appropriate. I do, however, have an objection to citizens reviewing our department's policies, practices, and procedures. Having a complete review of our department is appropriate.

Sheriff Stevens – We are all being held accountable for the terrible things happening nationally. We are making provisions. We are a small community. None of these polices make it easier for law enforcement to do their job. That is why consistency in the Law Enforcement Committee is key because no on-going education is needed.

Ms. Hults – Last week everyone seemed to be receptive to having this group, but not this week. What changed?

Inv. Baker – The feeling is not different, just working out the specifics. We welcome the open communication but need to work out the best way to make it happen.

D.A. Mallery – I think this is more of a Community relations situation. We need to be realistic to the amount of resources this will take. We have all invested a lot of time in this already and has interrupted our professional work.

Ms. Graulich – I have a suggestion. I think the reason this has worked so well thus far is because it is the same people each week. Make the name of the group obvious to the scope. Maybe meet 3-4 times per year and have structured topics to discuss. Outline the topics ahead of time. I would like to see Indigent Defense included in this group also.

Sgt. Reinhart – I think it is worthwhile for you and for us if you were included in the group.

Chairman Federice – It would need a crisp mission statement.

Ms. Hults – It is important to give the citizens a voice. We are the ones affected by policing. We aren't educated but we are part of the community.

Pastor Ray – I agree that we need to keep the dialog moving. I have a deeper understanding and knowledge of your profession. We need to have an avenue to discuss new topics. There will certainly be things that come up in the future.

D.A. Mallery – We must look at the limitations. There is a value in giving the community a voice. Call it what it is – call it a Community Relations Board.

Mr. Lape – One of the reasons for EO203 is Community Relations.

Chairman Federice – Tracking of Law Enforcement Engagements. This needs more clarity and a mechanism developed or found.

Sgt. Reinhart – The word engagements is very broad. Engagements could include the gentleman in Stewarts that asks me a question or the car I pull over for a broken taillight. Any interaction with the public is considered engagement.

Ms. Graulich – Let's look at Senate Bill 1830-C and Assembly Bill A.10609 for the STAT Act (attached). It states that the requirement is on NYS to compile and analyze the data for trends.

Inv. Baker – De-escalation and Implicit Bias are annual trainings. We are just waiting on NYS to release the training. So, this recommendation is already being done. The Use of Energy Conducted Weapons policy was sent out to you all and 1 change was made from your recommendations. As far as access to high-quality mental health services, they are already available. We have an EAP program and developing a CIRT (Critical Incident Response Team). We look out for each other and take care of each other.

Topics 2-7 – D.A. Mallery stated that we cannot be more restrictive than NYS Law requires. We are setting Schoharie County up for lawsuits if we do. We have spent hours on these topics, and we are already following what the state recommends.

Sgt. Reinhart – Some of the recommendations would put the public more at risk. Law Enforcement needs to have some latitude to make moving decisions as they play out and cannot be completely restricted.

Meeting adjourned at 4:55 pm.

Law/Radio/Law Review Meeting February 16, 2021 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Dick Lape	518-231-3084	Chair of Law Committee
3	Duane Tilipaugh, Undersheriff	518-295-2266	Sheriff's Dept.
4	Suzanne Graulich	518-295-8740	LDI
5	C.J. Smith	518-295-8300	BOS
6	Scott Haverly/Jordan	518-295-8465	I.T. Director
7	Steve Wilson	518-295-8303	County Administrator
8	Sheriff Ron Stevens	518-295-2266	Sheriff's Dept.
9	Bruce Baker	518-295-2266	Sheriff's Dept.
10	Sgt. Reinhart	518-295-2266	Sheriff's Dept.
11	Susan Mallory	518-295-2272	DA
12	Carl Walthers		SchoPeg
13	Pastor Ray Richards		Committee member
14	Peter Harrison		Rural Awakenings
15	Pat Hults		Rural Awakenings
16	Debbie Paden		Rural Awakenings
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Schoharie County Law Enforcement Review Committee (LERC)

February 9, 2021

Attendees: please see attached roster

Meeting called to order at 3:00 p.m.

The Sheriff's Department has made some recommended changes that have been discussed at prior meetings to the Use of Force, Conductive Energy Weapons and Portable Audio/Visual Recorders policies. It was decided that these updates will be highlighted and sent out to the group and we will discuss it more at next week's meeting.

Citizen Review Board discussion – What would the scope of this board be? Who should sit on it? How often to meet? Should this board be combined with the board established through the Village of Cobleskill Police Department (CPD)?

Chairman Federice – I would like to hear what everyone thinks about this. Personally, I am opposed to combining. The Schoharie County Sheriff's Department (SCSD) is a county department and must report to a county oversight committee monthly. Those meetings are normally open to the public, prior to the COVID restrictions.

Sgt. Reinhart – The Sheriff is elected by the people and serves the public on a 4-year referendum. The Sheriff must report monthly to the oversight committee made up of town supervisors that are also elected by the people. The input from this group has been great and has helped provide a better understanding from both sides.

Inv. Baker – I agree that we have gained a better understanding and the dialog should continue. Are there other groups or people interested?

Pastor Ray – I believe this has been an eye-opening and engaging experience for all. It is better to be proactive than re-active. A thermometer versus a thermostat.

Sheriff Stevens – The position of Sheriff is "The People's Voice" – the oldest form of policing. Its better to mediate a problem than to solve a problem. It is all about communication.

Ms. Cook – Thank you for the reception and consideration. I have learned a lot. I think we can find ways to talk. Maybe you can come to us? Our voice has no power. I wish there was a way to have a citizen in on the decision making. We aren't going to get all

that we want, and we knew that coming in. Some changes have been made. We all want what is best for the community. This is the best place to live.

Chairman Federice – Because of the make-up of our county, citizens do not have legal authority to make changes. There needs to be clear legal definition of what can and cannot be done.

D.A. Mallery – Authority cannot be delegated. If there is an issue that needs to be brought up, this oversight committee reports to and makes recommendations to the Board of Supervisors.

Ms. Hults – This is very valuable, but it seems unlikely to continue in a monthly format.

D.A. Mallery – I will speak for myself. It would be a good use of time if it is during an already scheduled meeting time. When I am here, I am not getting my work done. None of us are getting our work done right now. You can't expect more out of our professionals. We need to think about what is practical. It is more likely to get us to the table if we already must be here.

Inv. Baker – Part of 203 is transparency. We need to stay true to the Order of 203.

Mr. Lape – I think the idea of quarterly meetings is good. For public issues, maybe we can meet quarterly at 3:00 pm prior to the 5:00 pm oversight meeting.

Sheriff Stevens – I think this can continue to evolve after the April 1 due date. We can have a plan now and complete the details later.

Chairman Federice – I will write up a proposal with more specificity and get it out to everyone before next week's meeting. Lets now talk about Tracking Law Enforcement Engagements.

Ms. Graulich – I called the Cobleskill Judge, who is also the president of the Magistrate's Association. Susan and I can come to a meeting but wonder if the information needed may not be the information that is collected by them.

Pastor Ray – How is the village handling tracking?

Ms. Graulich – They are having the same issue we are having.

D.A. Mallery – I spoke with the judge about this also. They are not required to keep it.

Ms. Hults – We would like to make recommendations to try and solve the problem.

D.A. Mallery – We do not have the authority to make the judges do anything.

Chairman Federice – I will write up a proposal for discussion next week as well as come back to the 3 revised policies.

There are 7 items from Rural Awakenings to discuss.

1. Access to high quality mental health services for officers with departmental normalization of such service.

   Inv. Baker – we do have access to mental health services and we also have EAP for mental health and other services. We are in the process of formulating a CIRT – Critical Incident Response Team – to offer peer support from a certified team trainer. They will come out and train us to be "train the trainers" also. The saying is "Bury the stigma, not each other". We are all receptive to help; we are aware and cognizant of the issue.

   Sgt. Reinhart – This is an area that administration takes very seriously.

   Ms. Hults – We want to support your efforts.

   Ms. Cook – Are there any situations or incidents that automatically require a referral for mental health evaluation?

   Inv. Baker – There is no mandated time to get an evaluation. With CIRT, a team member will be assigned to an officer for the following 48 hours after an incident.

   Sheriff Stevens – Because of our size, we know each other personally. Law Enforcement has changed a lot over the years. Years ago, they turned their back on their peers. We are no more than you are. We just chose this profession. We appreciate that you are concerned about us. We do continue to find the best ways to obtain services and training.

2. Clearer imperatives that require officers to both intervene when they see use of excessive force and the requirement to report use of excessive force.

   We will hold this until next week after we see the changes to the policies.

3. Clearer imperative that body cams be turned on and operating at all times when force of any kind may be used.

   We will hold this until next week after we see the changes to the policies.

4. Banning of chokeholds. Chokeholds are banned, but carotid holds are not.

   Ms. Paden – We want a complete ban of chokeholds, including carotid.

   Sgt. Reinhart – Carotid holds are the least lethal. There are specific guidelines of when or when not to use.

5. Inclusion of the concept of the use of reasonable, proportional, and necessary force in Use of Force Policies.

   Chairman Federice – I think we have covered this. We cannot do more than NYS requires.

6. Adoption of a higher standard than "objective reasonableness" in Use of Force Policies and

7. Replacement of the concept of imminent danger with the use of immediate danger.

   D.A. Mallery – We need to follow NYS law on these also or we are opening Schoharie County up for lawsuits.

   Sgt. Reinhart – I see your philosophy, but it is not reality or practical. We cannot afford to take that risk.

   Inv. Baker – Discretion still needs to be an option. It eliminates disparity.

   Sgt. Reinhart – I think we can agree to disagree. Due to the changes in law, I think this is less of a concern than you think.

Chairman Federice – Next week we will go over the changes in the 3 policies as well as discuss the citizens group and data tracking.

Meeting adjourned 4:42 pm.

Law/Radio/Law Review Meeting January 9, 2021 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Bruce Baker	518-295-2266	Sheriff's Dept.
3	C.J. Smith	518-295-8300	BOS
4	Carl Walthers		SchoPeg
5	Debbie Paden		Rural Awakenings
6	Dick Lape	518-231-3084	Chair of Law Committee
7	Pastor Ray Richards		Committee member
8	Pat Hults		Rural Awakenings
9	Peter Harrison		Rural Awakenings
10	Sgt. Reinhart	518-295-2266	Sheriff's Dept.
11	Sheriff Ron Stevens	518-295-2266	Sheriff's Dept.
12	Steve Weinhofer	518-295-8300	BOS
13	Susan Mallory	518-295-2272	DA
14	Suzanne Graulich	518-295-8740	LDI
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Schoharie County Law Enforcement Review Committee (LERC)

January 26, 2021

Attendees: please see attached roster

Meeting called to order at 3:07 p.m.

Chairman Federice – As part of the open items to discuss, today's topic will be the use of *Tasers*, or Conducted Energy Devices.

Sgt. Reinhart – Deputy Minton is our subject matter expert.

Deputy Minton – *Taser* is a brand of conductive energy devices. This brand is widely used and accepted in law enforcement. *Taser* provides training on the use of the device, but they do not make policy. They provide guidelines and recommendations for policy, but each trained agency develops their own policy with *Taser* recommendations in mind.

Sgt. Reinhart – Our draft policy, attached, does not have many changes from what Lexipol recommended.

Ms. Paden – This policy is better than some of the others as far as the "shall" and "should". This one is much clearer. We only have a couple recommendations for changes.

Ms. Hults – Section 304.7 – Medical Treatment, the last sentence in the second paragraph states, "Additionally, any such individual who falls under any of the following categories **should**, as soon as practicable, be examined by paramedics or other qualified medical personnel:

a. The person is suspected of being under the influence of controlled substances and/or alcohol.
b. The person may be pregnant.
c. The person reasonably appears to be in need of medical attention.
d. The Taser device probes are lodged in a sensitive area (e.g. groin, female breast, head, face, neck).
e. The person requests medical treatment."

We recommend that say **shall** instead of should.

Ms. Paden – We would like there to be an expectation that medical treatment would be provided.

Sgt. Reinhart – That seems general and reasonable.

Chairman Federice – How deep do those probes go into the skin?

Deputy Minton – ¼ inch or less.

Sheriff Stevens – It also depends on the outer layers of clothing.

Ms. Paden – Section 304.4 – Verbal and Visual Warnings, the first sentence states, "A verbal warning of the intended use of the *Taser* device **should** precede its application, unless it would otherwise endanger the safety of deputies or when it is not practicable due to the circumstances." We would like that to say **shall.**

Inv. Baker – There may be a time when the announcement would put the officer in danger.

Deputy Minton – The warning is also for the other officers that are involved.

Chairman Federice – How about "Shall, when practical".

Sgt. Reinhart – Much of the body of these policies do say "if or when practicable", which does give an out. Shall and should is clearer. They set a much clearer expectation. I don't believe "if practicable" suffices.

Inv. Baker – We are operating in the bounds of State Law.

Sgt. Reinhart – It is difficult to write a policy for a 1-year officer and a 20-year officer. The more experienced officer has more room for discretion. We would not want the new officer to have much discretion.

Inv. Baker – The last suggested recommendations for the Use of Force policy will be finalized and presented at the next meeting.

Chairman Federice – My list of topic areas that still need final recommendation are: Conducted Energy Device, Body Camera, Use of Force, De-escalation, and Bias Based Policing. Any other topics?

Mr. Lape – Are all the Lexipol policies here?

Sgt. Reinhart – There are many Lexipol polices. Their package has over 150 policies. They triage the topics and group them together. We only started working with Lexipol about a year ago.

Sheriff Stevens – We are only talking about the polices that were designated by Executive Order 203. There are other polices that we have either completed or are working on that are not designated in 203. This is a work in progress and will be ongoing.

Mr. Lape – It must always be a work in progress with updates and new recommendations.

Sgt. Reinhart – Policy work is ongoing. There are also policies that are identified by PERMA, our insurance company. We need to satisfy their recommendations, so we don't lose our funding. PERMA's funding is the reason we work with Lexipol. We have had policies in place, and they will all be reviewed and updated.

Chairman Federice – any other topics that anyone feels need to be discussed? Our next meetings will focus on drafting our recommendations to present to the full Board of Supervisors. The deadline to have the response of Executive Order 203 to the State is April 1, 2021. Our next meeting will be next Tuesday, February 2nd at 5:00 p.m., along with the regular monthly Law Committee meeting. The conference phone will be available also.

Meeting adjourned at 3:45 p.m.

Law Review Meeting January 26, 2021 (Board Chambers)

	NAME	AGENCY/DEPT/VISITOR
1	Bill Federice	Chairman of the Board
2	C.J. Smith	BOS
3	Carl Walthers	SchoPeg
4	Debbie Paden	Rural Awakenings
5	Deputy Minton	Sheriff's Dept.
6	Dick Lape	BOS, Law Committee Chair
7	Duane Tilipaugh, Undersheriff	Sheriff's Dept.
8	Jordan/Gretchen	I.T.
9	Pat Hults	Rural Awakenings
10	Sgt. Zach Reinhart	Sheriff's Dept.
11	Sheriff Ron Stevens	Sheriff's Dept.
12	Suzanne Graulich	ILS
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Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the TASER (TM).

304.2 POLICY

The TASER device is used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to deputies and suspects.

304.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed office-approved training may be issued and may carry the TASER device.

TASER devices are available to Deputies for use while on-duty, particularly Deputies assigned to the Patrol Division.

Deputies shall only use the TASER device and cartridges that have been issued by the Office. Uniformed deputies who have been issued the TASER device shall wear the device in an approved holster. Non-uniformed deputies may secure the TASER device in the driver's compartment of their vehicles.

Members carrying the TASER device should perform a spark test prior to every shift.

When carried while in uniform, deputies shall carry the TASER device in a support-side holster on the side opposite the duty weapon.

(a) All TASER devices shall be clearly and distinctly identifiable in a manner which makes them easy to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, deputies should carry two or more cartridges on their person when carrying the TASER device.

(c) Deputies shall be responsible for ensuring that the issued TASER device is properly maintained and in good working order.

(d) Deputies should not hold a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of deputies or when it is not practicable due to the circumstances. The purpose of the warning is to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other deputies and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with a deputy's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy may, but is

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not required, to display the electrical arc (provided that a cartridge has not been loaded into the device) or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the deputy deploying the TASER device in the related report.

304.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is effective in controlling most individuals, deputies should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the deputy at the time indicate that such application is reasonably necessary to control a person:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm deputies, him/herself or others.

Mere flight from a pursuing deputy, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual. The TASER device shall not be used to psychologically torment, to elicit statements or to punish any individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the deputy, the subject or others, and the deputy reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between deputies and the subject, thereby giving deputies time and distance to consider other force options or actions.

304.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin should be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the deputy to limit the application of the TASER device probes to a precise target area, deputies should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Deputies should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Deputies should not intentionally apply more than one TASER device at a time against a single individual.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the deputy should evaluate the situation and consider certain factors before additional applications of the TASER device, including:

(a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

(b) Whether the probes are making proper contact.

(c) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(d) Whether verbal commands or other options or tactics may be more effective.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Deputies should take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the TASER device. As soon as practicable, deputies shall notify a supervisor any time the TASER device has been discharged. Anti-Felon ID (AFID) tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

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304.5.7 OFF-DUTY CONSIDERATIONS

Deputies are not authorized to carry office TASER devices while off-duty.

Deputies shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Deputies shall document all TASER device discharges in the related arrest/crime reports, inthe TASER device report forms and in a Use of Force form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device, other than for testing purposes, will also be documented on the report form.

304.6.1 TASER DEVICE REPORT FORM

Items that shall be included in the TASER device report form are:

(a) The type and brand of TASER device and cartridge and cartridge serial number.

(b) Date, time and location of the incident.

(c) Whether any display, laser or arc deterred a subject and gained compliance.

(d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.

(e) The range at which the TASER device was used.

(f) The type of mode used (probe or drive-stun).

(g) Location of any probe impact.

(h) Location of contact in drive-stun mode.

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any deputies sustained any injuries.

The Training Coordinator should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Coordinator should also conduct audits of data downloads and reconcile TASER device report forms with recorded activations.

304.6.2 REPORTS

The deputy should include the following in the arrest/crime report:

(a) Identification of all personnel firing TASER devices

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

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(e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Deputies should remove TASER device probes from a person's body in a manner consistent with their traning and experience. If a subject has a probe lodged in a sensitive area (head, face, neck, breast, genitals, eye, etc.) medical personnel should be requested to respond to remove the probes and treat the subject as may be needed. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person is suspected of being under the influence of controlled substances and/ or alcohol.

(b) The person may be pregnant.

(c) The person reasonably appears to be in need of medical attention.

(d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).

(e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another deputy and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting deputy shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device (see the Medical Aid and Response Policy).

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a Firearms Instructor and saved with the related arrest/crime report. Photographs of probe sites should be taken if practicable and witnesses interviewed.

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304.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial office-approved training. Any personnel who have not carried the TASER device as a part of their assignments for a period of six months or more shall be recertified by a qualified TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of a deputy's knowledge and/or practical skills may be required at any time if deemed appropriate by the Training Coordinator. All training and proficiency for TASER devices will be documented in the deputy's training files.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Deputies who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with deputies who use the device.

The Training Coordinator is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injuries and should not be mandatory for certification.

The Training Coordinator should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the TASER device.

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Schoharie County Law Enforcement Review Committee (LERC)

January 19, 2021

Attendees: please see attached roster

Meeting called to order at 3:02 pm.

Chairman Federice – We have 2 people on the conference line. We need to start winding down our discussions so we can begin to prepare our recommendations. One of the topics we needed to talk more about was the Body Cam Policy.

Ms. Paden – We reviewed your newer Body Cam policy and compared it to your older one and we feel the newer one is weak. Rather than leave it up to each law enforcement individual to determine when or when not to turn the camera on, we would like to see it more straight forward. The "shall" makes is mandatory, where "should" gives the option.

Sgt. Reinhart provided examples of why "should" fits best rather than "shall".

Ms. Paden – Last summer the NYS Police enacted a new body camera policy (attached email). It states that the NYS Police **"shall"** wear cameras and record. Why would the Sheriff's Department be different?

Sgt. Reinhart – Because of staffing numbers, rural coverage area, equipment malfunctions.

DA Mallory – "Should" provides leeway but I can guarantee you that our officers capture everything that I need. I think we can agree to disagree.

Chairman Federice – How about the taser policy?

Sgt. Reinhart – We are not prepared for that topic tonight. We can cover that next week though.

Ms. Paden – We reviewed your draft Bias-Based Policing Policy. We think it's good, but we feel there should be a way to evaluate. Refer to the "Police Statistics and Transparency Act - requires courts to compile and publish racial and other demographic data of all low-level offenses, including misdemeanors and violations. The data collected must be made available online and updated monthly. The new law also requires police departments to report any arrest-related death to the Department of Criminal Justice Services and to submit annual reports on arrest-related deaths to the Governor and the Legislature."

Sgt. Reinhart – This was discussed at last week's meeting. We understand that collecting and evaluating information is the only way to ensure that our policing is fair and objective. Our problem is that we don't collect that information, nor do we have time to or is it appropriate to do so. All of this information is collected by the courts. I believe the best way would be to obtain the necessary information from the courts.

Ms. Graulich – Yes. We decided that I would reach out to the Magistrates Association and ask to be invited to their monthly meeting so we can discuss this.

Ms. Hults – There is a need for transparency. We would like there to be access to results of complaints, access to body camera coverage and access to this information in a timely manner.

Sgt. Reinhart – This is already being done, by NYS Law. This is addressed with legislation. We cannot include all legislation in each policy. As we know legislation changes often, therefore our policies would have to change each time legislation changed. That would be very tedious and time consuming.

Pastor Ray – I think what they are saying is that if there is access to information, we just want the public to know about it and know how to access information.

DA Mallory – This is called FOIL – Freedom of Information Law. This is a NYS Law and it is being followed and has been for many years. We already follow the law and it is very time consuming. FOIL requests have strict guidelines and time frames that are followed.

Sheriff Stevens – What we have seen on the news nationally is not happening here. This is a transparent community. That is how we build trust.

Ms. Hults – We just want that fairness and transparency not to change.

Sheriff Stevens – I agree with you and I can assure you that during my administration here it will not change.

Chairman Federice – Your list has the desire to establish a county-wide police review committee.

Ms. Hults – We don't want to lose momentum on this topic.

Chairman Federice – Why county-wide?

Ms. Hults – Because of size, availability, similar policies.

Chairman Federice – I see you also have De-escalation training listed.

Ms. Hults – Yes. Is this something that is provided?

Sheriff Stevens – Yes. De-escalation is part of the training in the academy that every officer receives. Any training that is offered throughout the year we take advantage of.

Ms. Paden – We aren't necessarily looking for change. More looking for continued education.

Sheriff Stevens – De-escalation is preservation. The ability to communicate is the best tool to have.

Ms. Hults – We are a rural community. There should be no exception for racism or bias. I still see confederate flags flying which is an example that we still have bias. We just hope for awareness.

Chairman Federice – I see your point. But it's hard when no law is being broken.

We will meet next Tuesday here at 3:00 pm.

Meeting adjourned at 4:15 pm.

Law/Radio/Law Review Meeting January 19, 2021 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	C.J. Smith	518-295-8300	BOS
3	Carl Walthers		SchoPeg
4	Debbie Paden	virtual	Rural Awakenings
5	Duane Tilipaugh, Undersheriff	518-295-2230	Sheriff's Dept.
6	Pastor Ray Richards	518-234-2120	Committee member
7	Pat Hults		Rural Awakenings
8	Peter Harrison	virtual	Rural Awakenings
9	Scott Haverly/Jordan	518-295-8465	I.T. Director
10	Sgt. Zach Reinhart		
11	Sheriff Ron Stevens	518-295-2207	Sheriff's Dept.
12	Steve Weinhofer	BOS	BOS
13	Susan Mallory	518-295-2272	DA
14	Suzanne Graulich	518-295-8740	LDI
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Gmail

Bill Federice <federicebill@gmail.com>

Subjects not yet discussed by County

Pat Hults <hultsp@outlook.com> Tue, Jan 19, 2021 at 10:18 AM
To: Bill Federice <federicebill@gmail.com>
Cc: Theresa Heary <theresa.heary@gmail.com>, Paden/Meadows <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Reggie Harris <regerino42@gmail.com>, Wendy Cook <wcook001@luthersem.edu>, Alyson Montione <montionea@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>

Below are the subjects Rural Awakening feels have either not been addressed yet, or warrant further discussion. How do we find out the call-in number for today's meeting? Thank you. -Pat

Patricia Hults

We reviewed our initial recommendations and these are the issues that we believe still need discussion:
The need for transparency and accountability;
Access to information about complaints;
Access to body cam videos;
Access to information about disciplinary actions;
Establishment of County-wide police review committee to include village and county members, with specific charge of ongoing review of policy, among other duties; and
De-escalation training.

We want to be sure that structures are created so that this discussion continues after E0 203 has been complied with, a police review committee may be one way to accomplish that continuing dialogue. Accountability has been addressed in some of the policies that we have reviewed but it is an overarching concept that is essential for a strong institutional culture and for mutual trust between the community and the police. The Sheriff's Office must engage in meaningful review of officer conduct, including use of force, to give the community confidence that misconduct is identified and the conduct is appropriately addressed. Much of the current unrest across the country is rooted in a belief that some police departments tolerate abuse of authority, including excessive force and other misconduct or adhere to practices that are inconsistent with community values. In the long run, this belief will harm police officers as well as degrade public safety. As the Committee develops it's plan, consider whether improvements are needed in community oversight structures, accountability mechanisms or other efforts to shape and maintain a healthy and productive institutional culture.

The attached outline is on the Conference of Mayors website and we thought that the Committee might find it helpful as they develop their plan.

Thank you again for the opportunity to provide input!

NYS_Police_Reform_and_Reinvention_Guidance_PDF.pdf
187K

Gmail Bill Federice <federicebill@gmail.com>

Rural Awakening Comments on Schoharie County Draft Bias Based Policing (#401) and Portable Audio/Video Recorder Policy (#424)

2 messages

Pat Hults <hultsp@outlook.com> Mon, Jan 18, 2021 at 7:25 PM
To: Bill Federice <federicebill@gmail.com>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>, "bruce.baker@co.schoharie.ny.us" <bruce.baker@co.schoharie.ny.us>

Below is our response to the new drafts of policy #401 and #424. Thank you for providing an opportunity for input.

Patricia Hults

1. Bias Based Policing Policy;

Our only comment on this policy is that it is not enough that the policy provides that race based policing bias is not allowed, whether or not it is occurring has to be evaluated. In order to monitor if there are trends within the Sheriff's Office indicating bias, we recommend that the Sheriff annually review and analyze data collected by the New York State Unified Court System as part of the Police Statistics and Transparency Act (The Laws of New York Article 7-A: Judicial Administration, Section 212) which requires NYS courts to compile and publish racial and other demographic data for low-level offenses. This recommendation is part of the Village of Cobleskill draft plan.

2. Portable Audio/Video Policy

We were provided with a copy of the current County Policy BC120 "Provisions BODYCAM 'Body –worn Cameras' Recording System." This policy provided: " All Deputies and Investigators that have been issued a ...[body cam] shall wear it on their uniform at all times.....If assigned a [body camera] it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the [body camera] recording system in the scope of his/her duties. ...It will be the responsibility of each Deputy or Investigator that once the [body cam] has been activated, it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene or the citizen contact is complete." The policy also provides: "The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bit hard drives. Once captured, these recording cannot be altered in any way." Our only comment on that version of the policy was that body cam recordings should be made available to the public on a timely basis.

In June of 2020, New York enacted a new law that relates to body cameras that are to be worn by State Police (S8493/A8674). That new law, provides in part:

2. THE DIVISION OF STATE POLICE SHALL PROVIDE BODY-WORN CAMERAS, TO BE WORN BY OFFICERS AT ALL TIMES, WHILE ON PATROL. SUCH CAMERAS SHALL

RECORD:

(A) IMMEDIATELY BEFORE AN OFFICER EXITS A PATROL VEHICLE TO INTERACT WITH A PERSON OR SITUATION, EVEN IF THERE IS A DASH CAMERA INSIDE SUCH VEHICLE WHICH MIGHT ALSO BE RECORDING THE INTERACTION;

(B) ALL USES OF FORCE, INCLUDING ANY PHYSICAL AGGRESSION AND USE OF A NON-LETHAL OR LETHAL WEAPON;

(C) ALL ARRESTS AND SUMMONSES;

(D) ALL INTERACTIONS WITH PEOPLE SUSPECTED OF CRIMINAL ACTIVITY;

(E) ALL SEARCHES OF PERSONS AND PROPERTY;

(F) ANY CALL TO A CRIME IN PROGRESS;

(G) INVESTIGATIVE ACTIONS WHERE THERE ARE INTERACTIONS WITH MEMBERS OF THE PUBLIC;

(H) ANY INTERACTION WITH AN EMOTIONALLY DISTURBED PERSON; AND

(I) ANY INSTANCES WHERE OFFICERS FEEL ANY IMMINENT DANGER OR THE NEED TO DOCUMENT THEIR TIME ON DUTY.

The draft policy recently provided to us, Policy 424 "Portable Audio Video Recorders" falls far short of requiring that officers use and actually turn on their body cams, it is far too subjective, leaving it up to an individual officer to decide when it may be "valuable" or "appropriate" to turn it on. It states in part:

"This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview situations.

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

(c) Self-initiated activity in which a deputy would normally notify Dispatch.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

....At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable."

This draft policy is replete with the use of the term "should" in places where the words "shall" "will" or "must" are more appropriate. Our recommendation is to hold members of the Sheriff's Office to the standard now required of the State Police and follow no less than the straight forward, unequivocal approach taken by the State Legislature in this new law requiring that State Troopers record specific interactions with the public.

The other issue we have identified in the new draft policy is that it does not provide transparency and contain the clear direction that recordings must be preserved, shall be provided to the public on timely basis and that the recordings cannot be altered. However, it is possible that these provisions are contained in other policies. If so, we would appreciate receiving copies.

Thank you very much for the opportunity to comment.

3 attachments

424.pdf
19K

County Current Bodycam Policy.pdf
1645K

401.pdf
10K

Bill Federice <federicebill@gmail.com> Mon, Jan 18, 2021 at 7:31 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

[Quoted text hidden]

--
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:

Schoharie County Law Enforcement Review Committee (LERC)

January 12, 2021

Attendees: please see attached roster

Meeting called to order at 3:02 pm.

Chairman Federice – I understand the reluctance people have with coming to face-to-face meetings due to Covid-19. We researched using Zoom but it's very impractical and expensive for a municipality. IT may investigate getting a conference line open for all our meetings and maybe that can begin next week. That way people can ask real time questions. I would also like to solicit additional topics to discuss or delve more in depth into current topics. I expect we will continue to meet weekly through January and possibly February.

Mr. Lape – Mr. Baker emailed out Policy 401, Bias-Based Policing.

Inv. Baker – The Sheriff has signed off on this policy. We reviewed the "shall" and "should" and adjusted where feasible.

DCJS has completed their Implicit Bias Training and once it comes to Albany, we will take it and add it to our annual procedural justice training.

Discussion regarding the attached Bodycam Pull Request Form.

Inv. Baker – We can talk more about Bodycams next week. We still need to look at the taser policy and the handcuffing policy.

Pastor Ray – Discussion regarding the Village of Cobleskill Police Department's recommendations. I would like this group to talk more about collaborative mental health services and criminal issues related to mental health issues. This way they are working with the whole person – body, mind, and spirit.

Chairman Federice – Would like to look more into the Compliment or Complaint forms that was discussed at a previous meeting.

D.A. Susan Mallory – We need to discuss how to track racial bias. The courts already collect those statistics. The Sheriff would need to obtain that information from the 17 courts in the county somehow.

Inv. Baker – Could the Magistrates Association help with this?

Ms. Graulich – Perhaps Ms. Mallory and I could ask to attend a Magistrates Association meeting and discuss this. I will contact them.

Meeting adjourned at 3:50 pm.

Law/Radio/Law Review Meeting January 12, 2021 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Bruce Baker	518-295-2266	Sheriff's Dept.
3	C.J. Smith	518-295-8300	BOS
4	Carl Walthers		SchoPeg
5	Dick Lape	518-231-3084	Chair of Law Committee
6	Duane Tilipaugh, Undersheriff	518-295-2230	Sheriff's Dept.
7	Pastor Ray Richards	518-234-2120	Committee member
8	Peter Harrison	917-449-4512	Rural Awakenings
9	Rebecca Terk		Village of Cobleskill
10	Scott Haverly/Jordan	518-295-8465	I.T. Director
11	Sgt. Zach Reinhart		
12	Sheriff Ron Stevens	518-295-2207	Sheriff's Dept.
13	Susan Mallory	518-295-2272	DA
14	Suzanne Graulich	518-295-8740	LDI
15	Albro Fancher		NYS Police
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Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to office members that affirms the Schoharie County Sheriff's Office 's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the office's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach and partnerships).

401.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

401.2 POLICY

The Schoharie County Sheriff's Office is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this office to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit a deputy from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.4 MEMBER RESPONSIBILITIES

Every member of this office shall perform his/her duties in a fair and objective manner. Members should, when reasonable to do so, intervene to prevent any bias-based actions by another member.

401.4.1 REASON FOR CONTACT

Deputies contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

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To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved deputy should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any deputy to document a contact that would not otherwise require reporting.

401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved deputy and his/her supervisor in a timely manner.

1. Supervisors should document these discussions, in the prescribed manner.

(b) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(c) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this office who discloses information concerning bias-based policing.

401.6 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Coordinator.

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SCHOHARIE COUNTY SHERIFF'S OFFICE

BODYCAM PULL REQUEST FORM

CUSTODIAN USE ONLY
*DATE OF REQUEST:*_____
*DATE OF PULL:*_____
*# OF ITEMS VIDEOS:*_____

DATE OF INCIDENT: _____

DEPUTY: _____ **SHIELD:** _____ **BODYCAM NUMBER:** _____

It is requested that the following item(s) of BODYCAM Video be downloaded and converted to a media for presentation to: District Attorney ___ Case File: ___ Member: ____

Outside Agency: ____ Agency/Member Name: _____

Foil Request: ___

INCIDENT TYPE: _____ SUBJECTS NAME: _____

ASSISTING DEPUTY(S): _____

Event Time & SJS Number	Court Date

Forward to: _____

I, _____ ACKNOWLEDGE THE RECIEPT OF THE ABOVE REQUEST AND HAVE PRPEARED THE REQUESTED FILES ON THIS _____DAY OF _____, 20___ .

SIGNED: _____ *DATE:* _____

I, _____ *ACKNOWLEDGE THE RECEIPT OF THE ABOVE ITEMS ON* _____ *FROM* _____. *SIGNED:* _____

DISTRICT ATTORNEY REPRESENTATIVE

BODYCAM EVIDENCE DOWNLOADED AND PRESENTED TO THE SCHOHARIE COUNTY DISTRICT ATTONEY IN ACCORDANCE WITH NYS CPL 245.20(2)

Portable Audio/Video Recorders

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Schoharie County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

424.2 POLICY

The Schoharie County Sheriff's Office will provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public, to enhance Deputy and Investigator's safety and ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation, to provide an impartial measurement for self-critique and field evaluation for new deputy training, to capture visual and audio information for use in current and future investigations and most importantly, to enhance the public trust by preserving factual representation of Deputy/ Investigator interactions with the public in the form of audio and video recordings.

424.3 COORDINATOR

The Sheriff or authorized designee(s) should designate a coordinator responsible for:

(a) Establishing procedures for the security, storage and maintenance of data and recordings.

(b) Establishing procedures for accessing data and recordings.

(c) Establishing procedures for logging or auditing access.

(d) Establishing procedures for transferring, downloading, tagging or marking events.

424.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity of this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of recordings of a member conducting their official duties.

424.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Office, and that the recorder is in good working order. If the recorder is not in working order or if the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning

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device as soon as reasonably practicable. Members shall promptly report any lost, damaged or missing part of any recording system to their supervisor and will subsequesntly document such issue in memo form.

Any member assigned to a non-uniformed position should carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner.

Members shalldocument in any report or other official record of the contact, any instance where the recorder malfunctioned.. If a member deactivates the recording device for reasons other than routine and allowable reasons (i.e. report preparation, return to vehicle for information or other break from direct participation in the event), Members shallinclude the reason for de-activation.

424.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview situations.

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

(c) Self-initiated activity in which a deputy would normally notify Dispatch.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members will avoid recording a child victim of any sex offense. in the event that a report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort should be made to discontinue the recording promptly.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable. The Office recognizes that there will be times when, due to the nature of law enforcement work, exigent circumstances prevent the member from activation the recording system. In such instances the reason for not activating the recording system shall be documented in any report of the incident.

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Recording systems will not generally be used to record courtroom testimony. This does not apply to members assigned as court security or to members engaged in transportation of inmates or arrested subjects to court appearances.

424.6.1 CESSATION OF RECORDING
Once activated, the portable recorder should remain on continuously until his/her direct participation in the incident is complete. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. Any time the scene will be further documented by photographs and Evidence Technician(s) will be responding to do so (i.e. death investigations, burglaries, etc.) recording device may be deactivated upon the arrival of the investigator and/or evidence technician. Any such discontinuation of recording shall be documented in any report the member makes of the incident.

424.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER
New York law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission. Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

424.6.3 EXPLOSIVE DEVICE
Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

424.7 PROHIBITED USE OF PORTABLE RECORDERS
Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Sheriff. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements, and shall notify their supervisor prior to such use..

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule. This does not preclude recordings from being used for training purposes.

Recording systems should not be intentionally used to record personal activities, if such a recording is inadvertently made it shall be the responsibility of the Office to ensure that those such portions of any recording not be released in any fashion either publicly or for courtroom purposes.

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Recording systems shall not be intentionally activated to record conversations of/with fellow employees without their knowledge during routine, non-law enforcement related activities.

424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

Members should, at least once per shift, place the recording system into the docking station to allow the transfer of data onto the storage server.

To assist with identifying and preserving data and recordings, members shall complete a "Pull Request Form" for any incident in which recordings are routinely requested or produced (issuance of a UTT, Appearance Ticket or other arrest is made) and place the form in a designated file in accordance with current procedure and document the existence of the recording in any related case report.

A member should complete a "Pull Request Form"when the member reasonably believes:

(a) The recording contains evidence relevant to potential criminal, civil or administrative matters.

(b) A complainant, victim or witness has requested non-disclosure.

(c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

(d) Disclosure may be an unreasonable violation of someone's privacy.

(e) Medical or mental health information is contained.

(f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

A 710.30 Notice shall be prepared or the District Attorney's Office shall be notified if a member intends to use any of the defendant's recorded statements or actions as evidence against them.

424.9 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.

424.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

424.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Sheriff or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Records Access Officer prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Public Officers Law § 89).

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Schoharie County Law Enforcement Review Committee (LERC)

January 5, 2021

Attendees: please see attached roster

Meeting called to order at 5:08 pm.

Chairman Federice – tonight we will hear from the Rural Awakenings group.

Ms. Heary – thank you for the opportunity to come talk to you and thank you for all the hard work you have already put into this effort. My interest lays with this effort because I am a member of a bi-racial family.

Ms. Wilding – thank you. The last point in Executive Order 203 states "to promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color."

We do feel that the Sheriff's Department does a great job with this through the LEAD (Law Enforcement Assisted Diversion) Program and the prescription drop off program. Use of Force Policy is really the crux of our mission as the language is extremely important. Our discussions with the Village of Cobleskill Police Department have considered the following: a County Citizen Advisory Board that can meet annually or as needed, tracking race during certain interactions with the public, include implicit bias and de-escalation training, expanding the LEAD Program to support high risk individuals before a crime is committed, a restorative justice program for alternatives to incarceration and identifying community problems and collaborate to solve them. In the county's plan, we appreciate the recommendation that Law Enforcement have access to high quality mental health services. We believe that it very important.

Inv. Baker – about 3 months ago we adopted the expansion of the LEAD Program to include the higher risk individuals; a "pre-diversion diversion" if you will.

Ms. Wilding & Ms. Heary – thank you for that update. There are some changes to the draft policy that we would like you to consider.

(Copy of draft policy is attached to reference)

Section 300.2.1 ~ Duty to Intercede and Report - we would also like there to be a duty to report it to a supervisor. Currently it is recommended to report but not required. Last paragraph of this section would then read, "Any deputy who observes another law enforcement officer or a member use force that is beyond that which is objectively reasonable under the circumstances **shall** report these observations to a supervisor as soon as feasible."

Section 300.6 ~ Medical considerations to those in custody- currently it states that the injured person should be monitored, but we feel it is a requirement. It would then read "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 **shall** be continuously monitored until he/she can be medially assessed. Individuals should not be placed on their stomach for an extended period, as this could impair their ability to breathe."

Section 300.3 ~ Use of Force. Last paragraph states "nothing in this policy requires a deputy to retreat", but we feel this is too dangerous. We feel that less restrictive language results in less injuries and death. Campaign Zero Model Use of Force Policy (attached) has a section titled "Minimal Reliance on Force" recommendations that we would like you to consider.

Section 300.3.4 ~ Alternative Tactics – De-escalation. We feel that law enforcement shall use the least amount of force possible, therefore this section would read "Deputies regularly respond to tense or emotionally charged incidents. It is the mission of this office to bring these such situations to the most peaceful resolution possible. Research and experience have shown us that deputies are more likely to accomplish this goal if the individual(s) or situation can be de-escalated. De-escalation is always preferable to use of physical force and de-escalation techniques **shall** be employed whenever possible and practicable to help achieve compliance or to help resolve a situation. When circumstances reasonably permit, deputies **shall** use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve

communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion). Deputies **shall** receive continuing training in these areas whenever practicable.

Section 300.3.2 ~ Factors Used to Determine the Reasonableness of Force – we recommend that you compare this to the Campaign Zero Model Use of Force Policy (attached) section titled "Reasonable, Proportional, and Necessary Force".

Section 300.2.2 ~ Perspective. Would like it to say "When observing or reporting force used by a law enforcement officer, each deputy **shall** take into account the totality of the circumstances and the possibility that other law enforcement officers may have a different vantage point or additional information regarding the threat posed by the subject". Every officer involved should be included in each report.

Chairman Federice – next steps. We will be meeting weekly for the month of January and we hope to begin drafting recommendations in February then prepare to hold Public Hearings. The recommendations need to be presented to the full Board of Supervisors no later than the March 2021 meeting for approval, then submitted to the state by April 1, 2021.

Meeting adjourned at 6:05 pm.

Law/Radio/Law Review Meeting January 5, 2021 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Dick Lape	518-231-3084	Chair of Law Committee
3	Bruce Baker	518-295-2266	Sheriff's Dept.
4	C.J. Smith	518-295-8300	BOS
5	Carl Walthers		SchoPeg
6	Duane Tilipaugh, Undersheriff	518-295-2230	Sheriff's Dept.
7	Harold Vroman	607-397-8187	BOS
8	John Leavitt	518-429-8365	BOS
9	Pastor Ray Richards	518-234-2120	Committee member
10	Patsy Nicosia	518-705-5695	Times Journal
11	Peggy Hait	607-652-7223	BOS
12	Peter Harrison	917-449-4512	Rural Awakenings
13	Roberta Wilding	518-708-3875	Rural Awakenings
14	Scott Haverly/Jordan	518-295-8465	I.T. Director
15	Sheriff Ron Stevens	518-295-2207	Sheriff's Dept.
16	Steve Weinhofer	518-295-8300	BOS
17	Steve Wilson	518-295-8303	County Administrator
18	Susan Mallory	518-295-2272	DA
19	Suzanne Graulich	518-295-8740	LDI
20	Theresa Heary	518-872-2548	Rural Awakenings
21			
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Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. Every member of this office 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 deputy 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 deputy at the time, taken as a whole, including the conduct of the deputy 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. Deputies are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Deputies 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 Schoharie County Sheriff's Office recognizes and respects 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 monitoring, evaluation, and a careful balancing of all interests.

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300.2.1 DUTY TO INTERCEDE AND REPORT

It is imperative to this office that our reputation and legitimacy in the community be safeguarded. There is no greater detriment to the public trust than use of excessive force. It is the duty of every member of this office to defend our reputation and legitimacy by aggressively combating use of excessive force.

Any deputy 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, intercede to prevent the use of unreasonable force.

Any deputy who observes another law enforcement officer or a member use force that is 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 deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have a different vantage point oradditional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy 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 deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies 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 a deputy might encounter, deputies 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 deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this office. Deputies 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 a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

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300.3.1 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 deputy 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.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy 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 deputies or others.

(b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.

(c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies 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 deputy 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 deputy.

(l) Potential for injury to deputies, suspects, and others.

(m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.

(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.

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(p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.

(q) Prior contacts with the individual or awareness of any propensity for violence.

(r) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies 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.

(b) Whether the individual can comply with the direction or orders of the deputy.

(c) Whether the individual has been given sufficient opportunity to comply.

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

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

Deputies regularly respond to tense or emotionally charged incidents. It is the mission of this office to bring these such situations to the most peaceful resolution possible. Research and experience have shown us that Deputies are more likely to accomplish this goal if the individual(s) or situation can be de-escalated. De-escalation is always preferable to use of physical force and de-escalation techniques should be employed whenever possible and practicable to help achieve compliance or to help resolve a situation. When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion). Deputies should receive continuing training in these areas whenever practicable.

300.3.5 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:

(a) A carotid control hold may only be utilized by office members trained to properly do so.

(b) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.

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(c) Any individual who has had the carotid control hold 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.

(d) The deputy shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.

(e) Any deputy attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.

(f) The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.

300.3.6 STATE RESTRICTIONS ON THE USE OF OTHER 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 is strictly prohibited unless deadly physical force is authorized (Exec. Law § 840).

300.3.7 USE OF FORCE TO SEIZE EVIDENCE

In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. In the instance when force is used, deputies 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 and practicable, the deputy shall, prior to the use of deadly force, make efforts to identify him/herself as a peace or police officer and to warn that deadly force may be used, unless the deputy 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) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.

(b) A deputy may use deadly force to stop a fleeing subject when the deputy 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 deputy 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.

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 a deputy reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may

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also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the deputy believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks.

When feasible, deputies 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.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy 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 deputy or others.

Deputies 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 office shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Office may require the completion of additional report forms, as specified in office 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.

(b) The individual subjected to the force complained of injury or continuing pain.

(c) Any application of the TASER (TM) or control device.

(d) Any application of a restraint device other than handcuffs, shackles, or belly chains.

(e) The individual subjected to the force was rendered unconscious.

(f) An individual was struck or kicked.

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 he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

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Based upon the deputy'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 deputy 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 deputy 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 deputy 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 (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies 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.

300.6.1 ADDITIONAL STATE REQUIREMENTS

A deputy 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.

Deputies 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 resulting in visible injury, 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 (Executive Law § 840):

(a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs and/or videos have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs and/or video of uninjured areas.

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1. These photographs and/or video should be retained until all potential for civil litigation has expired.

(d) Identify any witnesses not already included in related reports, including any deputies present at the incident.

(e) Review and approve all related reports.

1. Supervisors should require that deputies who engaged in the use of force submit the appropriate reports and forms.

(f) 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.

1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to identify any training needs.

300.7.2 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor should ensure that the Records Clerk is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3). See the Records Division Policy for additional guidelines.

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, deputies should receive periodic training on:

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

(b) De-escalation tactics, including alternatives to force.

(c) Applications of use of force and conflict strategies as required by the state 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 office website (Executive Law § 840).

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300.10 USE OF FORCE ANALYSIS

Office Use of Force reporting forms should be periodically reviewed to identify any use of force trends that exist within the agency and/or to identify potential training needs.

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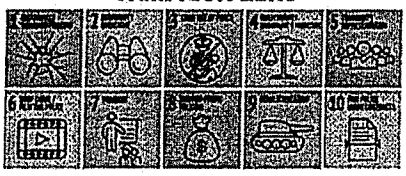
CAMPAIGN ZERO



MODEL USE OF FORCE POLICY

I. GENERAL

This policy sets forth criteria governing the use of force for the [Insert Jurisdiction] to prevent unnecessary force, ensure accountability and transparency, and ensure the community's trust and confidence in the [Insert Jurisdiction] ability to protect and serve.

MISSION. It shall be the utmost priority and mission of [Insert Jurisdiction] Police Department to protect and serve all individuals of [Insert Jurisdiction] and to respect the inherent life, liberty, dignity, and worth of all individuals by preserving human life, and minimizing physical harm and the reliance on use of force, and by conducting their duties without prejudice.

OFFICER'S RESPONSIBILITY AND COMPLIANCE.
All officers are responsible for knowing and complying with this policy and conducting themselves in a manner aligned with this mission. Any violation of this policy will subject the officer to disciplinary action, including and up to termination and criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.

II. USE OF FORCE

It shall be the policy of [Insert Jurisdiction] that all law enforcement officers must respect and preserve human life at all times and in all situations.

MINIMAL RELIANCE ON FORCE. Law enforcement officers of [Insert Jurisdiction] Police Department shall only use physical force when no other viable option is available and when all non-physical options are exhausted. (See section, "Alternatives to Use of Force). In all cases where force is used, only the minimum degree of force which is necessary shall be employed. The minimum degree of force is the lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective. [Model Policy: Buffalo PD Policy , San Francisco PD Policy]

To further the aim of minimal reliance on force, all law enforcement officers must carry on their person at all times at least one less-lethal weapon. [Seattle PD policy]

ALTERNATIVES TO USE OF FORCE. The following is a list of options that may be used instead of physical, non-deadly force [Seattle PD Policy]:

- De-escalation
- Placing barriers between an uncooperative subject and a law enforcement officer

- Containing a threat
- Moving from a position that exposes law enforcement officers to potential threats to a safer position
- Decreasing the exposure to potential threat by using
  - Distance
  - Cover
  - Concealment
- Communication from a safe position intended to gain the subject's compliance, using:
  - Verbal persuasion
  - Advisements
  - Warnings
- Avoidance of physical confrontation, unless immediately necessary (for example, to protect bystander or witness, or stop dangerous behavior)
- Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making
- Calling extra resources to assist or law enforcement officers to assist
  - More law enforcement officers
  - CIT law enforcement officers
  - Law enforcement officers equipped with less-lethal tools
  - Crisis Intervention Team, mental health and other health care professionals
- Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject through less-lethal means

Comparable to 300.3.2

REASONABLE, PROPORTIONAL, AND NECESSARY FORCE. Law enforcement officers shall use physical force only when it is objectively reasonable, necessary, and proportional to effectively and safely resolve a conflict. Force may only be used if and only if doing so is aligned with the Department's mission of preserving life and minimizing physical harm.

In furtherance of these principles, law enforcement officers may use reasonable, proportional force necessary to:

- Lawfully arrest, detain, or search an individual;
- Overcome active physical resistance;
- Prevent escape of an individual who the law enforcement officer has probable cause to believe has committed a serious crime;
- Defend oneself or others from active and actual physical danger;
- To prevent an individual from engaging in acts of self-harm.

Whether a law enforcement officer's use of force is reasonable will be evaluated based on its conformity with the principles and values outlined in this policy. All law enforcement officers must use the least amount of physical force necessary to achieve one or more of the objectives listed above. While recognizing that this is a higher standard than provided by the controlling U.S. law articulated by the Supreme Court, *Graham v. Connor*, 490 U.S. 386 (1989), this policy recognizes that there are situations whereby the use of force – up to and including deadly force – may be considered legally permissible, but not reasonable or necessary given the range of reasonable alternatives available to the law enforcement officer. In doing so, this policy complies with international law and standards and best upholds a commitment to protect and preserve human life. **Compliance with these principles and values will also help to ensure the safety and protection of law enforcement officers by reducing the need for, and reliance on, unnecessary physical force.**

FACTORS TO CONSIDER IN USE OF FORCE. The following factors may be used to determine whether the law enforcement officer used the appropriate level of force [LAPD Policy]:

- *The seriousness of the crime or suspected offense.* It will be presumptively unreasonable for a law enforcement officer to use serious physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony. That presumption may be rebutted with evidence that the use of force was justified in light of other factors listed here, among others.
- *The level of threat or resistance presented by the individual.* It will be presumptively unreasonable to use serious physical force against an individual that does not pose a current, active, and immediate threat of death or serious bodily injury[1] to the law enforcement officer or bystanders, or to use force against an individual that is engaged in passive resistance only.
- *The risk of escape.* It will be presumptively unreasonable to use physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony.
- *The conduct of the individual being confronted by the law enforcement officer.* Serious physical force may only be used if the individual acts in a manner than poses a current, active, and immediate threat of death or serious bodily injury to the law enforcement officer or bystanders. Under no circumstances may serious physical force be used to apprehend an individual engaged in passive resistance only.
- *Whether the officer is using force against an individual who appears to be having a behavioral or mental health crisis, a person with a mental illness, or a person who is otherwise in distress.*
- *The time available to a law enforcement officer to evaluate the situation and decide on a course of action.*
- *The availability of other feasible, less intrusive force options;*
- *The ability of the officer to provide a meaningful warning before using force.*
- *Whether the law enforcement officer believes the individual to be in close proximity to a deadly weapon, or a weapon that can inflict serious bodily injury on the law enforcement officer or bystanders.*
- *The tactical conduct and decisions made by the law enforcement officer preceding the use of force.*

LEVELS OF THREAT FROM SUBJECTS.

- *Compliant.* Subject offers no resistance.
- *Passive Resistance.* Does not respond to verbal commands but also offers no physical form of resistance. Expressing an intent to resist is not considered resistance.
- *Active Resistance.* Physically evasive movements to defeat, avoid, or prevent an officer's attempt at apprehension. Expressing an intent to resist an officer's attempt at control is not considered active resistance.
- *Assaultive.* Aggressive or combative; actively attempting to assault the officer or another person. Expressing an intent to assault an officer or another person is not considered assaultive under this policy.

1 "Serious bodily injury" means bodily injury that involves (1) a substantial risk of death; (2) protracted and obvious disfigurement; or (3) protracted loss or impairment of the function of a body part, organ, or mental faculty.

- *Life-threatening.* Any action likely to result in serious bodily injury or death of the officer or another person. [SFPD Policy]

LEVELS OF FORCE. Officers shall strive to use the minimum amount of force necessary to accomplish a lawful purpose, including levels of force lower than the level of threat. **Officers shall not, under any circumstances, use a level of force higher than the level of threat.**

- Low Level Force. The level of control necessary to interact with a subject who is or displaying passive resistance or active resistance. This level of force has a low probability of causing injury and includes physical controls such as control holds and other weaponless techniques.
- Intermediate Force. This level of force poses a foreseeable risk of significant injury or harm, but is unlikely to cause death. Intermediate force will only be authorized when officers are confronted with active or assaultive aggression and an immediate threat to the safety of officers or others. Certain force options such as OC spray, impact projectiles, and baton strikes are intermediate force likely to result in significant injury.
- Deadly Force. Any use of force substantially likely to cause serious bodily injury or death, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject's vehicle.

[SFPD Policy]

DE-ESCALATION. Prior to using physical, non-deadly and/or deadly force, all law enforcement officers must use proper de-escalation techniques to decrease the likelihood that law enforcement officers will resort to force and to increase the likelihood of cooperation between law enforcement officers and members of the public. [SFPD Policy, NOPD Policy]

Law enforcement officers shall employ effective communication techniques to engage with individuals who are not compliant with orders by establishing rapport, using the appropriate voice intonation, asking questions and providing advice to defuse conflict and achieve voluntary compliance before resorting to force options. [SFPD Policy]

Where feasible, all law enforcement officers must determine whether an individual's failure to comply with an order is the result of one of the following factors [Seattle PD Policy]:

- Medical conditions;
- Mental impairment;
- Developmental disability;
- Physical limitation;
- Language barrier;
- Drug interaction;
- Behavioral crisis; and
- Other factors beyond the individual's control

After evaluating whether the individual's failure to comply with an order is based on one of the factor's listed above, the law enforcement officer must then determine whether physical force,

and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner.

Under no circumstances may a law enforcement officer use force on an individual for insolence, or for running away where the individual does not pose a current, active, and immediate threat to the safety of bystanders, other law enforcement officers, or the primary law enforcement officer. [Settlement Agreement between the U.S. DOJ and Cleveland PD]

CRISIS INTERVENTION TEAM. When feasible, a Crisis Intervention Team (CIT) consisting of both mental health providers and CIT trained law enforcement officers shall respond to calls for service involving individuals known or suspected to have mental illness or who appear to be in mental or behavioral health crisis. [SFPD policy]

SUBJECT ARMED WITH A WEAPON - NOTIFICATION AND COMMAND. In situations where a subject is armed with a weapon, officers and supervisors shall comply with the following:

- Upon being dispatched to or on-viewing a subject with a weapon, an officer shall call a supervisor as soon as feasible.
- When notified that officers are dispatched to or on-view a subject armed with a weapon, a supervisor shall as soon as feasible:
    - Notify DEM, monitor radio communications, respond to the incident (e.g., "3X100, Fin monitoring the incident and responding.);
    - Notify responding officers, while en-route, to protect life, isolate and contain the subject, maintain distance, find cover, build rapport, engage in communication without time constraint, and call for appropriate resources;
    - Upon arrival, where appropriate, the supervisor shall assume command, and ensure appropriate resources are on-scene or are responding.
    - Officers and supervisors shall factor into their approach the possibility that a subject suspected of being armed with a weapon is, in fact, unarmed or carrying an object other than a weapon.

[SFPD Policy]

III. USE OF DEADLY FORCE

The most serious act in which a police officer can engage during the course of their official duties is the use of deadly force. The authority to carry and use firearms in the course of public service is an immense power, which comes with great responsibility. It shall be the policy of the [Insert Jurisdiction] Police Department that law enforcement officers shall NOT use deadly force against another person unless ALL of the following conditions are met:

- The law enforcement officer has an objectively reasonable belief that deadly force is necessary to protect themselves or another person from a subject who is posing a current, active, and immediate threat of death AND;
- The law enforcement officer has exhausted all reasonable alternatives to the use of deadly force, including de-escalation, other reasonable means of apprehending the suspect, defending themselves or others AND;
- The law enforcement officer objectively reasonably believes that using deadly force would not unnecessarily endanger innocent people;

The above circumstances apply to each discharge of a firearm or application of deadly force. Law enforcement officers shall reassess the situation, when feasible, to determine whether the subject continues to pose a current and active threat. A law enforcement officer is not justified in using deadly force at any point in time when there is no longer an objectively

reasonable belief that the suspect currently and actively poses an immediate threat of death, even if deadly force would have been justified at an earlier point in time. [St. Petersburg PD Policy, SFPD Policy, and Philadelphia PD Policy]

TACTICS PRECEDING THE USE OF DEADLY FORCE. Law enforcement officers shall not contribute to precipitating the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to de-escalate, withdraw, take cover or reposition, rather than the immediate use of force. The evaluation of an officer's use of deadly force will include consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. [Philadelphia PD Policy, LAPD Policy]

VERBAL WARNING. The law enforcement officer shall issue a verbal warning, when feasible, and have a reasonable basis for believing that the warning was heard and understood by the individual to whom the warning is directed prior to using deadly force against the individual.

PAST CONDUCT. A law enforcement officer shall not use deadly force where the only basis for using the deadly force is that the individual posed a threat of committing, or committed, a serious, violent crime prior to the encounter with police. Law enforcement officers are only authorized to use deadly force against a person who *currently and actively* poses an immediate threat of death to other persons and/or the law enforcement officer.

NO DEADLY FORCE IN CASES OF SELF-HARM ONLY. Under no circumstances may a law enforcement officer use deadly force to prevent an individual from self-harm where the individual does not currently and actively pose an immediate threat of either death to the others or to the law enforcement officer. [SFPD Policy]

MOVING VEHICLES.

- Officers shall not discharge a firearm at or into a moving vehicle unless the occupants of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and such action is necessary for self-defense or to protect the other person; shall not intentionally place themselves in the path of, or reach inside, a moving vehicle; and shall attempt to move out of the path of a moving vehicle.
- Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, SHALL NOT be justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants of the vehicle. [Philadelphia PD Policy]
- Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.
- Officers shall not discharge a firearm from his or her moving vehicle. Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop a threat of another person.

[SFPD Policy]

NECK HOLDS PROHIBITED. Law enforcement officers shall not use chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or neck.

OTHER PROHIBITIONS ON THE USE OF DEADLY FORCE.

- Law enforcement officers shall not discharge their firearms in defense of property.
- Law enforcement officers shall not use a firearm as a club.

- Law enforcement officers shall not fire warning shots under any circumstances.
- Law enforcement officers shall not discharge their firearms to subdue a fleeing individual who does not currently or actively pose an immediate threat of death to the officers or another person.

Failure to comply with this prohibition is punishable in various ways, including departmental disciplinary action and up to termination and/or criminal prosecution.

DRAWING AND POINTING FIREARMS.

- Law enforcement officers are only authorized to draw their firearms when they reasonably believe there is a current and active immediate threat of death to themselves or another person.
- The pointing of a firearm at a person is a seizure and requires legal justification. No officer shall point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to justify deadly force. If an officer points a firearm at a person, the officer shall, if feasible, safe and when appropriate, advise the subject the reason why the officer(s) pointed the firearm.
- When an officer points any firearm at a person, it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances. [SFPD Policy]

IV. OTHER DUTIES

DUTY TO RENDER MEDICAL ASSISTANCE. All law enforcement officers are required to render and, if necessary, call for medical assistance and other aid to anyone in police custody who the law enforcement officer knows, or has reason to know, is injured, and to anyone who complains of injury. [Baltimore PD Policy]

DUTY TO INTERVENE AND REPORT. All law enforcement officers must intervene when they reasonably believe that a law enforcement officer is using or is about to use unnecessary or excessive force in violation of this mission, and must report the incident to a supervisor. Failure to report incidents involving the use of unnecessary or excessive force will result in disciplinary action. [SFPD Policy]

DUTY TO PREVENT THROUGH EARLY INTERVENTION. The [Insert Jurisdiction] Police Department recognizes that through early intervention it may be possible to avoid the use of excessive force and prevent harm to the community. In this effort, the Department will implement early intervention systems to identity law enforcement officers who are at risk for engaging in the use of excessive force and to provide those law enforcement officers with re-training and appropriate behavioral interventions, re-assignments or other appropriate consequences to eliminate that risk.

V. USE OF FORCE REPORTING AND INVESTIGATIONS

REPORTABLE USES OF FORCE. To promote transparency and accountability of actions involving the use of force against civilians, law enforcement officers shall report any use of force involving physical controls when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Officers

shall also report any use of force involving the use of personal body weapons, chemical agents, impact weapons, ECWs (i.e. Tasers). vehicle interventions, K-9 bites, and firearms. Additionally, officers shall report the pointing of firearms or ECWs (i.e. Tasers) at a subject.

NOTIFICATION OF USE OF FORCE. An officer shall notify his or her supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force.

EVALUATION OF USE OF FORCE. A supervisor shall conduct a use of force evaluation in all cases involving a reportable use of force.

EXCESSIVE USE OF FORCE. Every allegation of excessive force shall be subject to the reporting and investigative requirements of this policy, [Insert Jurisdiction] Police Department disciplinary policies, and the [Insert Civilian Oversight Structure].

PROCEDURE:

OFFICER'S RESPONSIBILITY. Any reportable use of force shall be documented in detail in an incident report, supplemental incident report, or statement form. Officers shall complete use of force reports fully and truthfully. Descriptions shall be in clear, precise and plain language and shall be as specific as possible. When the officer using force is preparing the incident report, the officer shall include the following information:

- The subject's action allegedly necessitating the use of force, including any threat presented by the subject;
- Efforts to de-escalate prior to the use of force; and if not, why not;
- Any warning given and if not, why not;
- The type of force used;'
- Injury sustained by the subject:
- Injury sustained by the officer or another person;
- Information regarding medical assessment or evaluation, including whether the subject refused;
- The supervisor's name, rank, star number and the time notified.

Each law enforcement officer must submit a report without coaching or assistance from other law enforcement officers present during the incident.

SUPERVISOR'S RESPONSIBILITY. When notified of the use of force, the supervisor shall conduct a supervisorial evaluation to determine whether the force used appears necessary and within the provisions of this policy. The supervisor shall:

- Immediately respond to the scene unless a response is impractical, poses a danger, or where officers' continued presence creates a risk. When more than one supervisor responds, the responsibility shall fall on the senior supervisor;
- Ensure the scene is secure and observe injured subjects or officers;
- Ensure that witnesses (including officers) are identified and interviewed, and that this information is included in the incident report. The number of witnesses may preclude identification and interview of all witnesses, however supervisors shall ensure identification to the best of their ability;
- Ensure photographs of injuries are taken and all other evidence is booked;
- Remain available to review the officer's incident report, supplemental incident report and

written statement at the direction of the [Insert Next Rank Officer]. A supervisor shall not approve an incident report or written statement involving a use of force that does not comply with the requirements as set forth above;

- If applicable, ensure the supervisor's reason for not responding to the scene is included in the incident report.
- Supervisors shall complete and submit an evaluation form indicating whether the force used appears reasonable, necessary, and proportional, by the end of shift;
- No supervisor who used, participated in, or ordered reportable force, will conduct the supervisorial evaluation of the incident, unless it is impractical under the circumstances. When a supervisor uses, participates in, or orders reportable force, a [Insert Next Rank Officer] shall determine who will conduct the investigation.

The supervisor shall notify the [Insert Next Rank Officer] and [Insert Civilian Oversight Structure of Jurisdiction] if the supervisor determines that an officer's use of force is:

- Unnecessary, unreasonable, or disproportionate OR;
- Otherwise appears to violate [Insert Jurisdiction] policy OR;
- Results in serious bodily injury or death

POLICE AND CIVILIAN OVERSIGHT INVESTIGATIONS. When notified, the [Insert Next Rank Officer], [Insert Force Investigation Team, if applicable], and an independent investigator from the [Insert Civilian Oversight Structure of Jurisdiction] shall respond to the scene, secure the evidence, initiate on-going investigations into the use of force, and prepare reports to the [Insert Force Review Board and Civilian Oversight Structure] that contain preliminary findings, whether or not the use of force appears to comply with [Insert Jurisdiction] policy, and recommendations.

PROMPT INTERROGATION OF OFFICER(S) INVOLVED

Where an officer's use of force is determined to meet one or more of the conditions specified above, the supervisor will transport the involved officer, if not incapacitated, directly to [Insert Jurisdiction's Internal Affairs Office or Civilian Oversight Structure] for an investigatory interview.

- Officers involved shall be transported separately and shall not be allowed to converse with one another prior to the interview. If additional vehicles are needed; additional supervisors will be summoned to provide transportation.
- At the request of the officer involved, questioning shall be delayed for **no longer than two hours** in order to give the officer an opportunity to consult with a Union representative. [DC Metropolitan Police Policy]
- Officers involved shall not be permitted to review evidence related to or audio/video content depicting the use of force prior to an interrogation. [Oakland PD Policy]

INDEPENDENT CRIMINAL INVESTIGATIONS. Criminal investigations shall be initiated into all uses of force resulting in serious bodily injury or death. In addition, if information is obtained at any stage of the process which suggests criminal conduct involving any other use of force, the [Insert Police Chief or Civilian Oversight Structure] shall initiate a criminal investigation into this conduct. This includes criminal conduct while on duty, or while off-duty if the officer purports to act under the color of law, or commits the offense while using police property, equipment, or weapons. To ensure independence and legitimacy, [Insert Jurisdiction] shall include at least two investigators from [Insert Preferred State, Federal, or Neighboring Law Enforcement Agency or Civilian Oversight Structure, as appropriate] in all criminal investigations of [Insert Jurisdiction] law enforcement officers.

PUBLIC RELEASE OF INFORMATION FOLLOWING POLICE USE OF DEADLY FORCE. A press conference and/or an official press statement will be released by the Police Commissioner

or designee within 72 hours of an incident in which an individual was killed or wounded as a result of a use of force by an officer of [Insert Jurisdiction]. The information will include officer's name, years of service, assignment and duty status.

- The release will contain a preliminary summary stating the circumstances of the incident known at the time and based on the facts collected and confirmed by the investigators. The release will provide a brief synopsis of the incident, condition (injuries) of the individual and the proceeding steps of the investigation.
- Names of the individual subject and the officer will be released.
- No information regarding the subject's potential criminal record shall be released unless the officer's disciplinary record is also released simultaneously with this information.
- A preliminary summary based on the facts collected and confirmed by the investigators will be placed on the [Insert Jurisdiction] website.

[Philadelphia PD Policy]

DATA COLLECTION AND ANALYSIS. The Department will collect and analyze information on use of force in its database and Early Intervention System. The Use of Force statistics and analysis will include at a minimum:

- The type of force
- The types and degree of injury to suspect and officer
- Date and time
- Location of the incident
- Officer's unit
- District station where the use of force occurred
- Officer's assignment
- Number of officers using force in the incident
- Officer's activity when force was used (ex. Handcuffing, search warrant, pursuit)
- Subject's activity allegedly requiring the officer to use force
- Officer's demographics (age, gender, race/ethnicity, rank, number of years with [Insert Jurisdiction], number of years as a police officer)
- Subject demographics including race/ethnicity, age, gender, gender identity, primary language and other factors such as mental illness, cognitive impairment, developmental disability, drug and alcohol use/addiction and homeless.
- Outcome of any investigation regarding the use of force including any disciplinary actions that were taken as a result.

[SFPD Policy]

Schoharie County Law Enforcement Review Committee (LERC)

December 15, 2020

Attendees: see attached list

Meeting called to order at 3:00 pm.

Mr. Lape - Next meeting will be January 5, 2020 at 5:00 pm here in the Board of Supervisors Room. Please call ahead to reserve a seat.

Chairman Federice - The Rural Awakenings Group is scheduled to present their recommendations at our next meeting. However, beginning in January we will be meeting weekly. The first Tuesday of the month will be at 5:00 pm with the larger group that has time constraints and the next three Tuesday's will be at 3:00 pm with the smaller group. Therefore, it may be better for the Rural Awakenings Group to present at one of the 3:00 pm meetings as there will be more time. We will follow up with them.

The other thing we wanted to mention is a possible change of venue for the upcoming meetings. We may explore using Zoom so that the meetings can be more interactive. We will contact I.T. and see what our options are.

Inv. Baker and Stg. Reinhart – Our new Body Camera policy became effective January 14, 2020. Our team came up with a solid policy that took a lot of time and effort to produce. The Lexipol policy for Body Camera's does not fit much to our liking; we like ours better. Our workload recently has not been forgiving enough for us to spend any time working on policies. The current policy and the Lexipol recommendations need to be compared by our subject matter experts. We feel that our current policy is much more robust even than what the State recommends, therefore this topic is not top on our list to review right now.

Chairman Federice – I know we don't have anyone from the focus group here with us that can speak today, but my question is - What focus items would you like see covered in future meetings?

Pastor Ray – Discussed language changes in the Cobleskill Police Department's (CPD) policies from "should" to "shall" and "imminent" to "immediate".

Sgt. Reinhart – The difference between imminent and immediate is – immediate means that something is ready to take place; imminent means that there is a possibility that something may take place.

Inv. Baker – If the policies are from the state Department of Criminal Justice Services (DCJS), then the language cannot be changed or altered. Their current language allows leeway for officers to handle each situation as they feel needs to be handled.

Chairman Federice – There also is a difference in how things are written versus how things are implied.

Inv. Baker – Montgomery County has a "Public Compliment and Complaint Process" (attached). These are used for the public to make them feel heard and provides an immediate relief for someone with negative or positive thoughts or feelings. We think this is a good idea.

Sheriff Stevens – I agree that it's a good idea and it fits with Executive Order 203 requirements.

Inv. Baker – I will discuss with I.T. and get the current Use of Force policy on the website, as well as the revised compliment and complaint forms.

Pastor Ray – Can Rural Awakenings present first at the next meeting?

Chairman Federice – They are scheduled to be the presenters at the next meeting on January 5th. There isn't as much time at the first meeting of the month since it's a later time and there are other meetings after this one.

Sheriff Stevens – We also have a problem with retention. There are agencies to the east of us that are very competitive. They can take our exams and we pay for their trainings but after a short time of employment they leave for more money. It is a real problem. We are a "feeder" agency. This is an honorable career, but it is very difficult to find and keep good people.

Chairman Federice – Do the officers spend time in schools? That may help with retention.

Sheriff Stevens – Yes. We do frequent visits, have lunch with students, go to sporting and art events and make a general appearance in schools.

Sgt. Reinhart – We also attend Career Days. It is very hard to find young people to work in this field anymore.

Sheriff Stevens – Just think for a moment where we would all be without us. Times are challenging and Covid is exasperating that.

Chairman Federice – You are not just Peace Officers. At times you are counselors or mentors or a sounding board. Small communities benefit greatly.

Meeting adjourned at 3:50 p.m.

Law/Radio/Law Review Meeting December 15, 2020 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Dick Lape	518-231-3084	Chair of Law Committee
3	Duane Tilipaugh, Undersheriff	518-295-2266	Sheriff's Dept.
4	Suzanne Graulich	518-295-8740	LDI
5	C.J. Smith	518-295-8300	BOS
6	Scott Haverly/Jordan	518-295-8465	I.T. Director
7	Steve Wilson	518-295-8303	County Administrator
8	Patsy Nicosia		Times Journal
9	Carl Walthers		SchoPeg
10	Sheriff Ron Stevens	518-295-2266	Sheriff's Dept.
11	Bruce Baker	518-295-2266	Sheriff's Dept.
12	Sgt. Reinhart	518-295-2266	Sheriff's Dept.
13	Albert Fancher, Sr. Inv.		NYS Police
14	Susan Mallory	518-295-2272	DA
15	Pastor Ray Richards		Committee member
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Schoharie County Sheriff's Office

Subject: Provisions BODYCAM "Body-Worn Cameras" Recording System					Policy: BC120	
References/Standards:						
Effective: January 14, 2020			Distribution: All Personnel		Amends:	
Prepared by: Sheriff Ronald R. Stevens			Revised:		Rescinded:	
Reviewed Date:						

PURPOSE:

To establish uniform guidelines for the use of the Provisions BODYCAM "Body-Worn Cameras" recording system. The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bite hard drives. Once captured, these recording cannot be altered in any way

POLICY:

The Schoharie County Sheriff's Office has adopted the use of the Provisions BODYCAM "Body-Worn Cameras" recording system to accomplish the following policy goals:

A. To enhance Deputy and Investigators safety.
B. To accurately capture statements and events during the course of an incident.
C. To enhance the Deputies and Investigators ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation.
D. To provide an impartial measurement for self-critique and field evaluation for new Deputy training.
E. To capture visual and audio information for use in current and future investigations.
F. To enhance the public trust by preserving factual representation of Deputy/Investigator-citizen interactions in the form of audio and video recording.

All Deputies and Investigators that have been issued a Provisions BODYCAM "Body-Worn Cameras" recording system shall wear it on their uniform at all times, with the exception of training days, funerals, award ceremonies, or other events approved by a supervisor.
The use of personal cell phones or electronics to view or categorize data is PROHIBITED.

TRAINING:

A. Deputies and Investigators will not utilize the "Body-Worn Cameras "recording system until they have received the proper training.

B. Training will consist of, but not limited to:
1. A review of the system, its functions, proper usage, activation and deactivation.
2. A review of the user manual and SCSO policy governing its use.
3. A hands-on review of the "On Deputy" video recording system.
4. The retention and storage features and procedures for placing data into evidence.

C. Normal (Buffering) Mode — The Provisions BODYCAM "Body-Worn Cameras" recording system will be set at a continuous 30 second loop at which time video only (No audio) will be recorded while buffering.

D. Event Mode — Once activated, the Provisions BODYCAM "Body-Worn Cameras" video recording system saves the buffered video and continues recording audio and video for up to eight (8) hours. Pressing the function button places markers on the media segment for later viewing in EVIDENCE.com,

OPERATIONAL PROTOCOLS:

A. If assigned a Provisions BODYCAM "Body-Worn Cameras" recording system it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the Provisions BODYCAM "Body-Worn Cameras" recording system in the scope of his/her duties.

B. It will be the responsibility of each Deputy or Investigator that once the Provisions BODYCAM "Body-Worn Cameras" recording system has been activated; it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene, or the citizen contact is complete.

C. There will be times when, due to the nature of law enforcement work, exigent circumstances prevent the Deputy or Investigator from activating the "Body-Worn Cameras" video recording system.

1. In those types of events the Deputy or Investigator will document the reason for not activating the "On Deputy" video recording system.

D. Deputy or Investigator will avoid recording a *child victim* of any sex offense.

1. In the event that the report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort will be made to discontinue recording promptly in accordance with policy.

E. To respect the dignity of others, Deputies *should advise persons who are nude or whose sensitive human areas are exposed of recording.*

F. The Provisions BODYCAM "Body-Worn Cameras" recording system will not be used to record personal activity.

G. The Provisions BODYCAM "Body-Worn Cameras" recording system will be turned off for any courtroom testimony, this does not apply to Deputy Sheriff's assigned as court security.

H. The Provisions BODYCAM "Body-Worn Cameras" recording system shall not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-law enforcement related activities.

I. Deputies and Investigators will avoid recording any interactions with informants or undercover Officers.

J. Deputies and Investigators will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the Deputy will immediately notify their supervisor, document the malfunction and the supervisor is responsible to notify the Undersheriff, or their designee.

K. Deputies and Investigators will immediately report any loss or missing part of the "Body-Worn Cameras" recording system to their supervisor and will prepare a report outlining such loss or missing part. The supervisor is responsible for making immediate notification to the Undersheriff, or their designee.

L. Corrections Division Shift Supervisors will wear the Provisions BODYCAM during each respective tour of duty. Supervisors will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the supervisor will immediately document the malfunction and the supervisor is responsible to notify the Jail Administrator, Undersheriff, or their designee.

M. Corrections Division Shift Supervisors will activate the BODYCAM recording system at anytime there is disruption, use of force, inmate disciplinary interviews or hearings, search of the facility for contraband, or other criminal act within the facility. Such recording will continue until the incident has been deemed concluded and the facility has been made safe.

EVIDENTIARY PROTOCOLS:

A. At the end of their shift, or periodically during shift, deputies and Investigators will place the Provisions Camera and battery into a designated slot of the Docking Station, which will allow the data to be transferred from the Provisions camera through the ETM to a terra bite storage hard drive. If a deputy chooses to leave the Provisions camera in a Docking Station at end of shift, he/she must immediately retrieve it at beginning of their next shift, unless there is an emergency call requiring immediate response.

B. Deputies and Investigators will not allow citizens to review any recordings.

C. The release of audio/video data requested through a public records release request will be subject to the same statutory exemptions from disclosure as any other departmental records.

D. Deputies and investigators will not make copies of any recording for their personal use and are prohibited from using a recording device (such as a telephone, camera or secondary video camera) to record any media stored on Sheriff's Office evidence hard drive or the Provisions Camera unit.

E. Deputies and Investigators will have the ability to review their recordings to ensure accurate written reports but will not be able to alter the contents of any audio/video recording that has been recorded.

A 710.30 Notice must be prepared, or the District Attorney's Office notified that the Deputy or Investigator intends to use any of the defendant's recorded audio or video recorded statements for prosecution.

F. All digital media collected using the Provisions BODYCAM "Body-Worn Cameras" recording system is considered an official record of the Schoharie County Sheriff's Office. Accessing, copying or releasing any media for other than official law enforcement purposes is strictly prohibited, except as required by law.

G. In the event that a particular recording is required for any court proceeding it is the Deputies or Investigators responsibility to notify the Undersheriff, or their designee, in writing requesting a copy of the stored data for that purpose. The Undersheriff or their designee, will make a notation in the case report that a copy of the video recording was made and was turned over to whoever requested such recording.

a **attached Property/Evidence Pull Request Form*

ADMINISTRATOR RIGHTS:

The Undersheriff, Sheriff or their designee(s), shall be the only person(s) within the SCSO to have administrator rights to all recordings stored on the Sheriff's Office Evidence hard drives or their back systems.

Things to Keep in Mind

The subject of the complaint should involve alleged misconduct by an employee

The focus of the MCSO complaint procedure is on alleged misconduct by an MCSO employee that encompasses a violation of laws or MCSO Policy and Procedures. Dissatisfaction with an arrest or ticket is not considered a "complaint" and you will be referred to the court with the appropriate jurisdiction.

Anonymous complaints are investigated but not recommended

Although anonymous complaints are investigated, the investigations are less likely to reveal all the facts surrounding an incident when the investigator is unable to contact the complainant. MCSO encourages individuals with allegations of misconduct by our employees to identify themselves and submit to an interview.

Making a complaint will not affect actions or charges against the complainant

Employees are prohibited from retaliating against you for reporting truthful information in lodging a complaint against them.

Any charges or legal issues (present or future) must be decided by the appropriate court. The investigation of your complaint will focus on the conduct of the employee, not charges against you. Any charges against you are a separate issue that you will have to resolve at court. Therefore, if you were arrested or issued a ticket or summons during the incident that led to your complaint, you must still follow the direction of the appropriate court in resolving the case.

Values of the Montgomery County Sheriff's Office

- Maintain quality service as our primary goal, while vigorously pursuing those who commit crimes
- Strive to maintain the highest levels of integrity and professionalism in all our members and activities
- Provide courteous police service with respect for the rights and dignity of the people we serve
- Encourage public input regarding the development of strategies that directly affect the quality of neighborhood life
- Remain committed to a shared and open relationship of involvement with all segments of our community
- Encourage cooperative relationships with professionals from all facets of the community.

Montgomery County Sheriff's Office

200 Clark Drive

PO Box 432

Fultonville, NY 12072

jsmith@sheriff.montgomery.my.us

Montgomery County Sheriff's Office

Public Compliment and Complaint Process

MCSO's Responsibility

MCSO recognizes its responsibility to maintain the public confidence and trust, and the need to guarantee integrity and accountability of both the agency and of each employee.

Responsibility of the Public

We recognize the rights of all citizens, and want the public to recognize that MCSO employees must be able to exercise their best judgment in taking necessary and reasonable action in the performance of their duties without fear of retaliation.

Montgomery County Sheriff's Office Policy

It is the policy of MCSO to respond to compliments or complaints received from the public.

Complimentary Letters

Complimentary letters are:

- Reviewed by the Sheriff
- Forwarded to the employee(s)
- Placed in the employee's personnel file

Complaint Letters or Forms

Complaint letters or forms follow a very specific procedure to:

- Ensure fair and proper action is taken when an employee is accused of misconduct
- Protect employees from unwarranted or false accusations
- Ensure a thorough, fair and objective investigation
- Help identify and correct deficiencies in policies, procedures and/or training

Anyone can submit a complaint, at any time

The person most directly affected by the alleged conduct should be the person to make the complaint. Under most circumstances, this is the person most likely to provide the best information about the incident. However, third party complaints will be accepted and investigated to the best of our ability.

Complaints may be made:

- By mail to: The Montgomery County
  Sheriff's Office
  200 Clark Drive/PO Box 432
  Fultonville, NY 12072
- By calling 518-853-5500
- By email jsmith@sheriff.montgomery.ny.us

All complaints received are reviewed by the Sheriff

Complaints should be concise and specific

Describe the conduct of the employee that you believe to be improper.

- Provide the specific words or phrases used by the Officer
- Describe the employee's tone of voice
- Cite particular acts of rudeness
- Identify the employee as much as possible by providing:
- Employee's badge number and patrol vehicle number
- Date, time and location of the incident
- If available, include the names, addresses and telephone numbers of any witnesses.
- If your conversation took place over the phone, provide the date and time you called, as well as the phone number you called from.

Complaint Investigation Process

Every complaint of misconduct will be investigated until it reaches a conclusion.

Upon receipt of a complaint the Sheriff will assign the case for investigation. Generally, complaints will be assigned to the employee's supervisor.

Investigators will:

- Attempt to interview the complainant, the accused employee and all witnesses
- Examine physical evidence
- Review reports and records
- Thoroughly document the facts surrounding the incident and allegation

The investigator's report will be submitted to the Sheriff who will review it for completeness and objectivity.

Investigative Procedures

The standard of proof in an administrative investigation is a preponderance of the evidence. It is less than the standard in a criminal case, which is guilt beyond a reasonable doubt.

Sheriff's Office employees have rights protected under New York State Law. If, during the course of the investigation, it is determined that the employee could face significant discipline, we may ask you to submit to a sworn statement.

In a criminal investigation, Sheriff's Office employees have the same rights as any citizen, including the right to remain silent. If Officers are ordered to answer questions or face discipline, their answers cannot be used against them in a criminal matter.

Disciplinary Action

The Montgomery County Sheriff's Office Policy and Procedure manual utilizes the principle of progressive discipline. This allows for cumulative increase in penalty considering prior discipline while also allowing for consideration of mitigation circumstances.

Once management has reached a final disposition; appropriate action will be taken. This may involve documented counseling or re-training. It may also involve disciplinary action which includes oral reprimand, written reprimand, suspension or termination.

MONTGOMERY COUNTY SHERIFF'S OFFICE
Compliment Form

Instructions: If you would like to praise a Montgomery County Sheriff's Office employee, please fill out this form and return it to the Montgomery County Sheriff's office at the address below. Personal information will not be disclosed to the public, unless required by law.

PLEASE PRINT LEGIBLY

_____
First and Last Name

_____
Street Address

Sex: □ Male □ Female

_____
Street Address Line 2

Age: _____

_____
City

Date of Birth: _____

_____
State Zip Code

Phone Number(s)

_____
Home Work Mobile

Information about the Incident

Location:

_____
Street Address

Date: _____

_____
Street Address Line 2

Time: _____ AM/PM (Please Circle)

_____
City

MONTGOMERY COUNTY SHERIFF'S OFFICE
Compliment Form

Name of Sheriff's Office Employee: **Badge # (if known):** _____

_____

Name of Second Employee: **Badge # (if known):** _____

_____

Nature of Action: Check all that apply

	Yes	No
Extremely Helpful	☐	☐
Very Caring/empathetic	☐	☐
Did a great job	☐	☐
Made an extra effort	☐	☐
Other	☐	☐

Statement of Facts:
Describe in detail the action(s) of the officer(s) that led you to file this compliment:

_____

_____

_____

_____

_____

_____

Signature Date

Please return to:
Sheriff Jeffery T. Smith
Montgomery County Sheriff's Office
200 Clark Drive/ PO Box 432
Fultonville, NY 12072

MONTGOMERY COUNTY SHERIFF'S OFFICE
Complaint Form

Instructions: If you wish to file a complaint regarding a Montgomery County Sheriff's Office employee, please fill out this form and return it to the Montgomery County Sheriff's office at the address below. Personal information will not be disclosed to the public, unless required by law.

Please indicate the type of complaint you wish to file:

☐ **Formal Complaint:** Involves a serious allegation of misconduct, to be officially investigated, for which discipline may be imposed, if the allegation(s) is sustained.

☐ **Informal Complaint:** Involves a minor complaint or concern, for informational purposes only and will not be formally investigated. However, the matter will be discussed with the employee(s) involved.

PLEASE PRINT LEGIBLY

_____
First and Last Name

_____ **Sex:** □ Male □ Female
Street Address

_____ **Age:** _____
Street Address Line 2

_____
City **Date of Birth:** _____

_____
State Zip Code

Phone Number(s)

_____
Home Work Mobile

MONTGOMERY COUNTY SHERIFF'S OFFICE
Complaint Form

Information about the Incident

Location:

_____ Date: _____
Street Address

_____ Time: _____ AM/PM (Please Circle)
Street Address Line 2

_____
City

Name of Sheriff's Office Employee: **Badge # (if known):** _____

_____

Name of Second Employee: **Badge # (if known):** _____

_____

Nature of Action: Check all that apply

Excessive and improper use of force	☐
False Arrest	☐
Unlawful search and/or seizure	☐
Dishonesty and untruthfulness	☐
Corruption	☐
Rudeness, discourtesy or offensive language	☐
Violation of civil rights	☐
Bias-based procedures and tactics	☐
Other	☐

MONTGOMERY COUNTY SHERIFF'S OFFICE
Complaint Form

Statement of Facts:
Describe in detail the action(s) of the officer(s) that led you to file this complaint:

_____

_____

_____

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_____

_____

_____

Signature Date

Please return to:
Sheriff Jeffery T. Smith
Montgomery County Sheriff's Office
200 Clark Drive/ PO Box 432
Fultonville, NY 12072

Control Devices

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control individuals who are violent or who demonstrate the intent to be violent, the Cobleskill Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. The Chief of Police may also authorize other positions or individual department members to use specific control devices.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only those members who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a person who is violent or who demonstrates the intent to be violent and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply shall~~should~~ precede the use of these devices.

302.4 RESPONSIBILITIES

302.4.1 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor may authorize the use of a control device by selected department members who may not currently be issued or carrying the control device or those in specialized assignments who have successfully completed the required training.

Every control device will be periodically inspected by the Shift Supervisor or the designated instructor for a particular control device. Any deficiencies shall be documented.

302.4.2 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police or authorized designee shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

302.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Firearms Instructor for disposition. Documentation shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin shall~~should~~ not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to him/herself or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignments or at the direction of their supervisors.

302.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects, based on the circumstances. Only the Incident Commander or New York State Police Special Operations Response Team Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary. Tear gas shall not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

When practicable, fire and emergency medical services personnel shall~~should~~ be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation, if needed.

302.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, OC spray may be considered for use to bring under control an individual or group of individuals who are engaging in, or are about to engage in, violent behavior. OC spray shall~~should~~ not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

302.7.1 OC SPRAY

Uniformed members carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field members may carry OC spray as authorized, in accordance with the needs of their assignments or at the direction of their supervisors.

302.7.2 TREATMENT FOR OC EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC shall ~~should~~ be promptly provided with clean water to cleanse the affected areas. Those who complain of further severe effects shall be examined by appropriate medical personnel as soon as is practicable.

Control

302.8 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

302.8.1 DEPLOYMENT AND USE

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of individuals engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

(a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.

(b) The suspect has made credible threats to harm him/herself or others.

(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at officers, other department members and/or other people.

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

302.8.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

(a) Distance and angle to target.

(b) Type of munitions employed.

(c) Type and thickness of subject's clothing.

(d) The subject's proximity to others.

(e) The location of the subject.

(f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device shall~~should~~ precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to

manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the suspect must be weighed against the risk of causing serious injury or death. The head and neck shall~~should~~ not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

302.8.3 SAFETY PROCEDURES
Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect shotguns and projectiles at the beginning of each shift to ensure that the shotguns are in proper working order and the projectiles are of the approved type and appear to be free from defects.

When they are not deployed, shotguns will be unloaded and properly and securely stored in police department vehicles or in a secure location within the police department. When deploying a kinetic energy projectile shotgun, officers shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

302.9 TRAINING FOR CONTROL DEVICES

The Chief of Police shall ensure that those members who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the member's training file.

(c) Members who fail to demonstrate proficiency with the control device or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with a control device or knowledge of the Use of Force Policy after remedial training, the member will be restricted from carrying the control device and may be subject to discipline.

302.10 REPORTING USE OF CONTROL DEVICES

Any application of a control device shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Conducted Energy Device

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device.

303.2 POLICY

The conducted energy device is used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

303.3 ISSUANCE AND CARRYING CONDUCTED ENERGY DEVICES

Only members who have successfully completed department-approved training may be issued and may carry the conducted energy device.

Conducted energy devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the conducted energy device and cartridges that have been issued by the Department. Uniformed officers who have been issued the conducted energy device shall wear the device in an approved holster. Non-uniformed officers may secure the conducted energy device in the driver's compartment of their vehicles.

Members carrying the conducted energy device shall~~should~~ perform a spark test prior to every shift but not more than once every 24 hour period.

When carried while in uniform, officers shall carry the conducted energy device in a weak-side holster on the side opposite the duty weapon.

(a) All conducted energy devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the conducted energy device.

(c) Officers shall be responsible for ensuring that the issued conducted energy device is properly maintained and in good working order.

(d) Officers should not hold a firearm and the conducted energy device at the same time.

303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the conducted energy device shall~~should~~ precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the conducted energy device may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required, to display the laser in a further attempt to gain compliance prior to the application of the conducted energy device. The aiming laser shall~~should~~ not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the conducted energy device in the related report.

303.5 USE OF THE CONDUCTED ENERGY DEVICE

The discharge of a conducted energy device must follow the guidelines documented in the departmental Use of Force Policy. The conducted energy device has limitations and restrictions requiring consideration before its use. The conducted energy device should only be used when its operator can safely approach the subject within the operational range of the device. Although the conducted energy device is effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

303.5.1 APPLICATION OF THE CONDUCTED ENERGY DEVICE

The conducted energy device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person and is consistent with guidelines in the department Use of Force Policy:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the conducted energy device to apprehend an individual. The conducted energy device shall not be used to psychologically torment, to elicit statements or to punish any individual.

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the conducted energy device on certain individuals should be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent or who

are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

The use of the drive-stun mode should be limited to pain compliance, supplementing the probe-mode to complete the circuit, [ASK WHAT THIS MEANS] or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

303.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin shall~~should~~ be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the conducted energy device probes to a precise target area, officers shall~~should~~ monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

303.5.4 MULTIPLE APPLICATIONS OF THE CONDUCTED ENERGY DEVICE

Officers shall~~should~~ apply the conducted energy device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Officers shall~~should~~ not intentionally apply more than one conducted energy device at a time against a single individual.

If the first application of the conducted energy device appears to be ineffective in gaining control of an individual, the officer shall~~should~~ evaluate the situation and consider certain factors before additional applications of the conducted energy device, including:

(a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

(b) Whether the probes are making proper contact.

(c) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(d) Whether verbal commands or other options or tactics may be more effective.

303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shallshould take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the conducted energy device. As soon as practicable, officers shall notify a supervisor any time the conducted energy device has been discharged. Whenever practicable, c~~C~~onfetti tags shall~~should~~ be collected and the expended cartridge, along with both probes and wire, shall~~should~~ be submitted into evidence. The cartridge serial number shall~~should~~ be noted and documented on the evidence paperwork. The evidence packaging shall~~should~~ be marked "Biohazard" if the probes penetrated the subject's skin.

303.5.6 DANGEROUS ANIMALS

The conducted energy device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

303.5.7 OFF-DUTY CONSIDERATIONS
Officers are not authorized to carry department conducted energy devices while off-duty.

303.6 DOCUMENTATION

Officers shall document all conducted energy device discharges in the related arrest/crime reports and the conducted energy device report forms. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device, other than for testing purposes, will also be documented on the report form.

303.6.1 CONDUCTED ENERGY DEVICE REPORT FORM
Items that shall be included in the conducted energy device report form are:

(a) The type and brand of conducted energy device and cartridge and cartridge serial number.

(b) Date, time and location of the incident.

(c) Whether any display or use of laser deterred a subject and gained compliance.

(d) The number of conducted energy device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.

(e) The range at which the conducted energy device was used.

(f) The type of mode used (probe or drive-stun).

(g) Location of any probe impact.

(h) Location of contact in drive-stun mode.

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any officers sustained any injuries.

The Chief of Police shall~~should~~ periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Chief of Police shall~~should~~ also conduct audits of data downloads and reconcile conducted energy device report forms with recorded activations.

303.6.2 REPORTS
The officer shall~~should~~ include the following in the arrest/crime report:

(a) Identification of all personnel firing conducted energy devices

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

(e) Any known or suspected drug use, intoxication or other medical problems

303.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate law enforcement or medical personnel should remove conducted energy device probes from a person's body. Used conducted energy device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by conducted energy device probes or who have been subjected to the electric discharge of the device or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories shall~~should~~, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person is suspected of being under the influence of controlled substances and/ or alcohol.

(b) The person may be pregnant.

(c) The person reasonably appears to be in need of medical attention.

(d) The conducted energy device probes are lodged in a sensitive area (e.g., groin, ~~female~~ breast, head, face, neck).

(e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal shall~~should~~ be witnessed by another officer and/or medical personnel and shall be fully documented in related reports and any audio and video recordings.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the conducted energy device (see the Medical Aid and Response Policy).

303.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors shall~~should~~ respond to calls when they reasonably believe there is a likelihood the conducted energy device may be used. A supervisor should respond to all incidents where the conducted energy device was activated.

A supervisor shall~~should~~ review each incident where a person has been exposed to an activation of the conducted energy device. The device's onboard memory shall~~should~~ be downloaded through the data port by a supervisor or Firearms Instructor, and any reports generated from the downloaded data shall be included with the related arrest/crime report. Photographs of probe sites shall~~should~~ be taken and witnesses interviewed.

303.9 TRAINING

Personnel who are authorized to carry the conducted energy device shall be permitted to do so only after successfully completing the initial department-approved training.

A reassessment of an officer's knowledge and/or practical skills may be required at any time if deemed appropriate by the Chief of Police. All training and proficiency for conducted energy devices will be documented in the officer's training files.

Command staff, supervisors and investigators shall~~should~~ receive conducted energy device training as appropriate for the investigations they conduct and review.

Officers who do not carry conducted energy devices shall~~should~~ receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Chief of Police is responsible for ensuring that all members who carry conducted energy devices have received initial training.

Application of conducted energy devices during training could result in injuries and should not be mandatory for certification.

The Chief of Police shall~~should~~ ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the conducted energy device and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the conducted energy device.

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

301.2 POLICY

The Cobleskill Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

301.3 USE OF RESTRAINTS

Only members who have successfully completed Cobleskill Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or offense leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration shall ~~should~~ be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

301.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees shall~~should~~ continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers shall~~should continuously~~ weigh the safety interests at hand against the continuing intrusion upon the detainee.

301.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant shall ~~should~~ be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body shall~~should~~ not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

301.3.3 RESTRAINT OF JUVENILES
A juvenile who appears to be under 14 years of age shall ~~should~~ not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

301.3.4 NOTIFICATIONS
Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification shall~~should~~ include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

301.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS
Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers shall~~should~~ not conclude that in order to avoid risk every person should be handcuffed regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs shall~~should~~ be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility or other secure area.

301.5 APPLICATION OF SPIT HOODS
Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods shall~~should~~ ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers shall ~~should~~

assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods shall~~should~~ not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care shall~~should~~ be obtained. If the person vomits while wearing a spit hood, the spit hood shall~~should~~ be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray shall~~should~~ be thoroughly decontaminated, including hair, head and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood shall~~should~~ be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints shall~~should~~ be monitored as reasonably appears necessary.

301.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines shall~~should~~ be followed:

(a) If practicable, officers shall~~should~~ notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

(c) Once secured, the person shall~~should~~ be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person shall~~should~~ be continually monitored by an officer while in the leg restraint. The officer shall~~should~~ ensure that the person does not roll onto and remain on his/her stomach.

(e) The officer shall~~should~~ look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by emergency medical services, the restrained person shall~~should~~ be accompanied by an officer when requested by medical personnel. The transporting officer shall~~should~~ describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

301.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of restraints other than handcuffs or plastic cuffs shall be documented in the related report.

Officers shall~~should~~ document the following information in reports, as appropriate, when restraints other than handcuffs or plastic cuffs are used on a person:

(a) The factors that led to the decision to use restraints.

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

(d) The amount of time the person was restrained.

(e) How the person was transported and the position of the person during transport.

(f) Observations of the person's behavior and any signs of physiological problems.

(g) Any known or suspected drug use or other medical problems.

301.9 TRAINING

T~~Subject to available resources, t~~he Chief of Police shall~~should~~ ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

MISSION STATEMENT, VISION STATEMENT, AND ORGANIZATIONAL VALUES

MISSION STATEMENT

We, the members of the Cobleskill Police Department, are committed to providing ethical, quality and responsive service to the community with pride and professionalism. We are committed to improving the quality of life for those we serve by delivering the highest standard of police services.

VISION STATEMENT

We envision a future where people ~~law-abiding citizens~~ feel safe and take pride and comfort in the quality of life in our community and a future where disorder and criminal activity continues to be vigorously and intelligently pursued. We envision our department as a superior service-oriented organization that incorporates innovative strategies, contemporary technologies, proven community policing philosophies, positive leadership, and efficient and effective use of resources into all organizational decisions.

OUR ORGANIZATIONAL VALUES

Commitment to Service:

We believe our primary duty is to safeguard lives and property, while respecting the human and constitutional rights of all.

Commitment to Community Involvement:

We believe community partnerships are critical elements of our organization. Collaboration, cooperation and communication with our residents ~~citizens~~ and businesses are the framework for successful community-oriented policing.

Commitment to Our Employees:
We believe that our employees are the greatest and most valuable assets of our organization; and that through regular training, education, career development, exemplary leadership, and organizational support, our employees will reach the highest standards of performance and professional satisfaction while serving the needs of our community.

Commitment to Responsibility and Accountability:
We believe that the prudent and effective management of our resources is critical to the future of our organization. We believe transparency to the public of philosophy, policy, and action of the department is critical.

Note: this document should explicity declare the department's intent to guard against implicit racial, gender, sex and other biases in carrying out its duties.

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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 acceptable~~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.

Commented [1]: Add definition of Immediate

Immediate - an action that is present, next in order, and not separated in space or time.

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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 Cobleskill 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.

300.2.1 DUTY TO INTERCEDE 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, intercede 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 shall~~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 shall~~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, and will be held accountable should they violate that trust.

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.

T~~While~~ the ultimate objective of every law enforcement encounter is to avoid or minimize injury. Officers should consider retreating or risk being exposed to the possible minor physical injury instead of applying force. ~~, 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

When circumstances reasonably permit, officers shall ~~should~~ use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

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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.

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 shall~~should~~ consider:

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

(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 CAROTID CONTROL HOLD~~

~~A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:~~

~~(a) At all times during the application of the carotid control hold, the response of the individual shall~~~~should~~~~ be monitored. The carotid control hold shall should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.~~

~~Any individual who has had the carotid control hold 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.~~

~~(b) 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 the carotid control hold and whether the individual lost consciousness as a result.~~

~~(b) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.~~

~~The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.~~

~~300.3.6~~300.3.5 STATE RESTRICTIONS ON THE USE OF OTHER 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 is prohibited under NYS law. (Penal Law § 121.13-A) ~~unless deadly physical force is authorized (Exec. Law § 840). [Does state law allow choke holds when deadly force authorized?]~~

~~300.3.7~~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. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not ~~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. Officers are encouraged to use techniques and methods taught by the Cobleskill Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

T~~When reasonable, t~~he officer shall, prior to the use of deadly force, make every reasonable efforts to identify him/ herself as a peace 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 immediate~~imminent~~ threat or immediate ~~imminent~~ risk:

(a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an immediate ~~imminent~~ threat of death or serious bodily injury.

(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 immediate ~~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 shall~~should~~ precede the use of deadly force whenever feasible~~, where feasible~~.

When an imminent, but not immediate, threat or risk exists, officers may use less-than-lethal force. ~~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 involve additional considerations and risks, and are rarely effective.

O~~When feasible, o~~fficers shall~~should~~ take reasonable steps to move out of the path of an

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Use of
approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer shall ~~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 immediate ~~imminent~~ threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers shall~~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 shall~~should~~ articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

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.

(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.

~~(e)~~(f) If choke holds and other such restraints are in the policy as o.k. in cases where deadly force is authorized, they should be included here

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~~(f)~~(g) Any application of a restraint device other than handcuffs, shackles, or belly chains.

~~(g)~~(h) The individual subjected to the force was rendered unconscious.

~~(h)~~(i) An individual was struck or kicked.

~~(i)~~(j) 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 shall~~should~~ be continuously monitored until he/she can be medically assessed. Individuals shall ~~should~~ not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Use of

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 (sometimes called "excited delirium"), 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 shall~~should~~ be considered medical emergencies. Officers who reasonably suspect a medical emergency shall~~should~~ request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.6.1 ADDITIONAL STATE REQUIREMENTS

An officer shall~~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 shall~~should~~ document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor shall~~should~~ respond to a reported application of force resulting in visible injury, 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 (Executive Law § 840):

(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) Ensure that any injured parties are examined and treated.

(c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. 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 shall ~~should~~ not be summarized or included in any related criminal charges.

2. The fact that a recorded interview was conducted shall~~should~~ be documented in a property or other report.
3. The recording of the interview shall~~should~~ be distinctly marked for retention until all potential for civil litigation has expired.

(d) 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 shall~~should~~ be retained until all potential for civil litigation has expired.

(e) Identify any witnesses not already included in related reports, including any officers present at the incident.

(f) Review and approve all related reports.

1. Supervisors shall~~should~~ require that officers who engaged in the use of force submit the appropriate report.

(g) Determine if there is any indication that the individual may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor shall ~~should~~ complete and route a notification of a potential claim through the appropriate channels.

(h) 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.

1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor 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.

300.7.2 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor shall~~should~~ ensure that the Chief of Police is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3). See the Administration Policy for additional guidelines.

300.8 REMOVAL FROM LINE DUTY ASSIGNMENT
Generally, whenever a member's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that member will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place a member in an administrative assignment.

300.9 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

OSubject to available resources, officers shallshould receive periodic training on:

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

(b) De-escalation tactics, including alternatives to force.

(c) Applications of use of force and conflict strategies as required by the state Use of Force Model Policy (Executive Law § 840).

300.10 POLICY AVAILABILITY

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

300.11 USE OF FORCE ANALYSIS

At least annually, the Chief of Police or authorized designee shallshould prepare an analysis report on use of force incidents. The report shallshould be submitted to the Chief of Police and made available to the public. The report should not contain the names of officers, suspects, or case numbers, and shallshould 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.

Schoharie County Law Enforcement Review

December 1, 2020

Attendees: see attached list

Meeting called to order at 5:30 pm.

Next meeting will be December 15, 2020 at 3:00 pm here in the Board of Supervisors Room. Please call ahead to reserve a seat.

Mr. Lape – Referred to correspondence from Wendy Cook (attached) regarding concerns and questions from the last meeting as well as possible items to consider in policies.

Mr. Federice – Reminder to please talk into the microphone when speaking to ensure that folks watching the Live-Stream can hear. I also want to touch on scheduling again to make the deadline. I think that by January 31, 2021 we should be wrapped up with investigations and testimony. During the month of February this committee can develop a report/recommendations to be presented to the full Board of Supervisors at the March 2021 Board meeting. There will also need to be either a resolution or Local Law passed with these recommendations and it all needs to be submitted to the state by March 31, 2021.

Sheriff Stevens – Before we begin our presentation, I want to introduce Sgt. McCoy, Sgt. Reinhart and Deputy Minton. These 3 are certified trainers at the Zone 5 Academy. For the size of our department, to have 3 certified trainers in our ranks has been recognized by the state and many other departments.

Sgt. Reinhart presented the **DRAFT** Use of Force policy and read it out loud. Open dialog with questions/answers. The DRAFT policy, as well as other supporting documents that were handed out, are all attached.

Meeting adjourned at 7:22 pm.

Law/Radio/Law Review Meeting December 1, 2020 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Dick Lape	518-231-3084	Chair of Law Committee
3	Steve Weinhofer	518-231-6681	Committee member
4	John Leavitt	518-295-8300	BOS Committee member
5	Sheriff Ron Stevens	518-295-2266	Sheriff's Dept.
6	Duane Tilipaugh	518-295-2266	Sheriff's Dept.
7	Sgt. McCoy	518-295-2266	Sheriff's Dept.
8	Sgt. Reinhart	518-295-2266	Sheriff's Dept.
9	Deputy Minton	518-295-2266	Sheriff's Dept.
10	C.J. Smith	518-295-8300	BOS
11	Scott Haverly/Jordan	518-295-8465	I.T. Director
12	Steve Wilson	518-295-8303	County Administrator
13	Patsy Nicosia		Times Journal
14	Carl Walthers		SchoPeg
15	Suzanne Graulich	518-295-8740	LDI
16	Pastor Ray Richards		Committee member
17	Peter Harrison	917-449-4512	Community member
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Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. Every member of this office 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:

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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 deputy 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 deputy at the time, taken as a whole, including the conduct of the deputy 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. Deputies are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Deputies 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 Schoharie County Sheriff's Office recognizes and respects 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 monitoring, evaluation, and a careful balancing of all interests.

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300.2.1 DUTY TO INTERCEDE AND REPORT

It is imperative to this office that our reputation and legitimacy in the community be safeguarded. There is no greater detriment to the public trust than use of excessive force. It is the duty of every member of this office to defend our reputation and legitimacy by aggressively combating use of excessive force.

Any deputy 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, intercede to prevent the use of unreasonable force.

Any deputy who observes another law enforcement officer or a member use force that is 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 deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have a different vantage point oradditional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy 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 deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies 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 a deputy might encounter, deputies 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 deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this office. Deputies 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 a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

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300.3.1 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 deputy 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.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy 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 deputies or others.

(b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.

(c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies 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 deputy 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 deputy.

(l) Potential for injury to deputies, suspects, and others.

(m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.

(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.

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(p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.

(q) Prior contacts with the individual or awareness of any propensity for violence.

(r) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies 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.

(b) Whether the individual can comply with the direction or orders of the deputy.

(c) Whether the individual has been given sufficient opportunity to comply.

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

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

Deputies regularly respond to tense or emotionally charged incidents. It is the mission of this office to bring these such situations to the most peaceful resolution possible. Research and experience have shown us that Deputies are more likely to accomplish this goal if the individual(s) or situation can be de-escalated. De-escalation is always preferable to use of physical force and de-escalation techniques should be employed whenever possible and practicable to help achieve compliance or to help resolve a situation. When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion). Deputies should receive continuing training in these areas whenever practicable.

300.3.5 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:

(a) A carotid control hold may only be utilized by office members trained to properly do so.

(b) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.

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(c) Any individual who has had the carotid control hold 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.

(d) The deputy shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.

(e) Any deputy attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.

(f) The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.

300.3.6 STATE RESTRICTIONS ON THE USE OF OTHER 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 is strictly prohibited unless deadly physical force is authorized (Exec. Law § 840).

300.3.7 USE OF FORCE TO SEIZE EVIDENCE

In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. In the instance when force is used, deputies 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 and practicable, the deputy shall, prior to the use of deadly force, make efforts to identify him/herself as a peace or police officer and to warn that deadly force may be used, unless the deputy 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) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.

(b) A deputy may use deadly force to stop a fleeing subject when the deputy 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 deputy 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.

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 a deputy reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may

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also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the deputy believes the individual intends to do so.

300.4.1 MOVING VEHICLES
Shots fired at or from a moving vehicle involve additional considerations and risks.

When feasible, deputies 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.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy 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 deputy or others.

Deputies 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 office shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Office may require the completion of additional report forms, as specified in office 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.
(b) The individual subjected to the force complained of injury or continuing pain.
(c) Any application of the TASER (TM) or control device.
(d) Any application of a restraint device other than handcuffs, shackles, or belly chains.
(e) The individual subjected to the force was rendered unconscious.
(f) An individual was struck or kicked.

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 he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

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Based upon the deputy'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 deputy 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 deputy 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 deputy 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 (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies 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.

300.6.1 ADDITIONAL STATE REQUIREMENTS

A deputy 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.

Deputies 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 resulting in visible injury, 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 (Executive Law § 840):

(a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs and/or videos have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs and/or video of uninjured areas.

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1. These photographs and/or video should be retained until all potential for civil litigation has expired.

(d) Identify any witnesses not already included in related reports, including any deputies present at the incident.

(e) Review and approve all related reports.

1. Supervisors should require that deputies who engaged in the use of force submit the appropriate reports and forms.

(f) 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.

1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to identify any training needs.

300.7.2 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor should ensure that the Records Clerk is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3). See the Records Division Policy for additional guidelines.

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, deputies should receive periodic training on:

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

(b) De-escalation tactics, including alternatives to force.

(c) Applications of use of force and conflict strategies as required by the state 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 office website (Executive Law § 840).

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300.10 USE OF FORCE ANALYSIS

Office Use of Force reporting forms should be periodically reviewed to identify any use of force trends that exist within the agency and/or to identify potential training needs.

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Gmail Bill Federice <federicebill@gmail.com>

Law enforcement review

Bill Federice <federicebill@gmail.com> Mon, Nov 23, 2020 at 11:07 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>

---------- Forwarded message ---------
From: **Wendy Cook** <wcook001@luthersem.edu>
Date: Mon, Nov 23, 2020 at 11:02 AM
Subject: Law enforcement review
To: Bill Federice <federicebill@gmail.com>, <Ronald.stevens@co.schoharie.ny.us>

November 21, 2020

To: Sheriff Stevens, Mr. Federice, and Law Enforcement Review Committee Members

I would like to follow up on the Committee meeting of Tuesday, the 17th. (I apologize for my tardiness. I mistakenly went to the Howes Cave facility first.) Please note that this letter represents only my own personal views and suggestions.

I greatly appreciate the professionalism, pride and care evidenced by the law enforcement officers at the meetings I have attended. Your job is not easy. I have great respect for and confidence in the care and commitment you bring to it every day. At the meeting last week I especially appreciated hearing your forthright perspectives, such as on the mostly law-abiding community you serve, the challenges of hiring academically and personally qualified officers, holding officers accountable, distinctions between large urban and small rural departments, and your sincere desire to be the best agency you can be. That's what we all want!

I would like to offer some concerns for consideration as the Committee moves forward on implementing EO203. The first concerns regard Lexipol. Lexipol pitches its policy products as successfully protecting law enforcement departments and governing bodies (i.e. Schoharie County) from lawsuits. One strategy Lexipol uses is to write policies that describe legal standards without providing specific operational guidance. Officers cannot then be held accountable because there is no specific behavior to hold them accountable to; it's all subjective interpretation.

Additionally, I am concerned about research that indicates Lexipol policies do not support de-escalation strategies and regulation of use of force. It seems to me that these are precisely the tools needed to prevent life-threatening situations. I fear it is naive to assume that officers will know, remember and use these tools if that is not an explicit policy. Related to that, I also do not think 3-minute quickie training bites can provide the necessary focus for keeping officers sharp.

The last Lexipol concern I will mention is administrative. I have been told that local departments can "tweak" the Lexipol standard policy. However, the updates that Lexipol issues do not take local changes into account and instead simply replace, and therefore lose, the locally devised clauses.

Secondly, Sheriff Stevens, I believe you asked for specific use of force policy concerns from the public. I invite you to check out the website useofforceproject.org. This project studied policies and correlations to police violence. It found eight components that were effective in reducing occurrences of police-involved killings. To the local community's credit, Cobleskill Police General Orders already include five of the eight. I have not seen Sheriff's Department policies, but I will presume the protocols are similar.

The most imperative use of force component missing from local written policies is a defined force continuum that instructs officers on best practices. This sets a higher standard than the long-held Graham v. Connor "objective reasonableness". I believe a higher standard is not only possible, but necessary in these more enlightened times. I therefore suggest for consideration the attached policy (adapted from NAACP and Campaign Zero sources) at the end of this letter.

I offer use of force as a starting point but there are also other policy subjects of concern, including but not limited to:

1. Transparency, including the prompt release of body cam footage, electronic records, reports and officer files, when/if there are incidents of police violence.
2. Officers must be meaningfully trained on department policies and the policies must be enforced by leadership from the top–down, thus establishing a culture of accountability.

In closing, let me repeat that I believe the Sheriff's Department is, on the whole, hardworking, conscientious, and honest, not to mention NEEDED. With the community input mandate of EO203, we have a golden opportunity now to ensure that we have the best possible Department policies, especially given that the previous policy manual was lost in the flood of 2011. Thank you for your attention to my concerns set forth here.

Sincerely,

Wendy Cook
612-554-7295
wcook001@luthersem.edu
109 Anthony Circle, Cobleskill

Use of Force Policy

A. *Minimal Reliance on Force.* Law enforcement officers shall only use physical force when no other viable option is available and when all non-physical options are exhausted. In all cases where force is used, only the minimum degree of force necessary shall be employed. The minimum degree of force is the lowest level of force necessary to effect an arrest or achieve a lawful objective. To further the aim of minimal reliance on force, all law enforcement officers must carry on their person at all times at least one less likely to be lethal weapon.

B. *Continuum of Use of Force.*

1. De-escalation options –
   - Placing barriers between an uncooperative subject and a law enforcement officer
   - Containing a threat
   - Moving from a position that exposes law enforcement officers to potential threats to a safer position
   - Decreasing the exposure to potential threat by using:
     - distance
     - cover
     - concealment
   - Communication from a safe position intended to gain the subject's compliance, calm an agitated subject, and promote rational decision-making:
     - verbal persuasion
     - advisements
     - warnings
   - Avoidance of physical confrontation, unless immediately necessary (e.g., to protect a bystander or witness, or stop dangerous behavior)
   - Calling extra resources to assist or law enforcement officers to assist
   - Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject through less likely to be lethal means
2. Empty-hand control using bodily force to gain control of a situation –
   - Soft technique: grabs, holds and joint locks to restrain an individual

- Hard technique: punches and kicks to restrain an individual

3. Less likely to be lethal methods –
   - Blunt impact: use of a baton or projectile to immobilize a combative individual
   - Chemical: use of chemical sprays or projectiles embedded with chemical to restrain an individual (e.g., pepper spray)
   - Conducted energy devices: use of a device discharging a high-voltage, low-amperage jolt of electricity at a distance
4. Lethal force – a measure of last resort that is permissible only if a suspect poses an immediate threat to life or great bodily injury or to prevent an arrest from being defeated by resistance or escape and the person poses an immediate threat of death or great bodily harm unless arrested without delay
   - Serious bodily injury means bodily injury that involves a substantial risk of death; protracted and obvious disfigurement; or protracted loss or impairment of the function of a body part, organ, or mental faculty.

C. *Factors to Consider in Use of Force.*

1. The seriousness of the crime or suspected offense. It will be presumptively unreasonable for a law enforcement officer to use serious physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony. That presumption may be rebutted with evidence that the use of force was justified in light of other factors listed here, among others.
2. The level of threat or resistance presented by the individual. It will be presumptively unreasonable to use serious physical force against an individual that does not pose a current, active, and immediate threat of death or serious bodily injury [defined at B.4. above] to an officer or bystanders, or to use force against an individual that is engaged in passive resistance only.
   - Compliant – subject offers no resistance.
   - Passive resistance – subject does not respond to verbal commands but also offers no physical form of resistance. Expressing an intent to resist is not considered resistance.
   - Active resistance – subject makes physically evasive movements to defeat, avoid, or prevent an officer's attempt at apprehension. Expressing an intent to resist an officer's attempt at control is not considered active resistance.
   - Assaultive – subject is aggressive or combative, actively attempting to assault the officer or another person. Expressing an intent to assault an officer or another person is not considered assaultive.
   - Life-threatening – any action likely to result in serious bodily injury [defined at B.4. above] or death of the officer or another person.
3. The risk of escape. It will be presumptively unreasonable to use physical force against an individual who the officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony.
4. The conduct of the individual being confronted by the officer. Serious physical force may only be used if the individual acts in a manner that poses a current, active, and immediate threat of death or serious bodily injury to the officer or bystanders. Under no circumstances may serious physical force be used to apprehend an individual engaged in passive resistance only.
5. Whether the officer is using force against an individual who appears to be having a behavioral or mental health crisis, a person with a mental illness or a person who is otherwise in distress.
6. The time available to an officer to evaluate the situation and decide on a course of action.
7. The availability of other feasible, less intrusive force options.
8. The ability of the officer to provide a meaningful warning before using force.
9. Whether the officer believes the individual to be in close proximity to a deadly weapon, or a weapon that can inflict serious bodily injury [defined at B.4. above] on the officer or bystanders.
10. The tactical conduct and decision made by the law enforcement officer preceding the use of force.

Use of Force

Model Policy

September 2020



Municipal Police
Training Council

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

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Use of Force Model Policy



STATE OF NEW YORK
Division of Criminal Justice Services
Office of Public Safety

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Use of Force
Model Policy

At the forefront of the national discussion involving policing in America is the way in which police use force. Agency policies regarding the use of force are facing increased scrutiny and agencies are seeking to ensure that their Use of Force policies are well-reasoned. Agencies are increasingly concerned with providing their officers with the best direction possible as they are tasked with making split-second judgements under circumstances that are tense, uncertain, and rapidly evolving.

The Council sought to address these concerns with the attached policy. The MPTC Use of Force model policy is firmly rooted in the 4th Amendment jurisprudence that governs police use of force, while remaining broad enough to serve as a framework for any agency in New York to build upon. This version of the policy has been promulgated pursuant to Executive Law §840(4)(d)(3) and adopted by the Municipal Police Training Council in September of 2020.

Acknowledgements

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District Attorney's Association of the State of New York

Law Enforcement Training Directors Association of New York State

New York State Association of Chiefs of Police

New York State Police

New York City Police Department

New York State Sheriff's Association

New York State University Police

New York State Department of Corrections and Community Supervision

Use of Force - Model Policy

Municipal Police Training Council

I. PURPOSE

Law enforcement officers 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 to individual agencies as they develop their own use of force policies in accordance with Executive Law §840(4)(d)(3).

This policy is not intended to endorse or prohibit any particular tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

II. POLICY

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.[1] The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer 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 officers 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."[2]

This policy is written in recognition of 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 a careful balancing of all interests.

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[1] Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness.

[2] *Graham v. Connor,* 490 U.S. 386 at 396 (1989).

III. DEFINITIONS

A. **Objectively Reasonable** – An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable 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 officer at the time that the force was used.[3]

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.[4]

C. **Physical Injury** – Impairment of physical condition or substantial pain.[5]

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.[6]

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.[7]

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.[8]

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 officer at the time of the event.

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[3] *Graham*, 490 U.S. 396 (1989)
[4] NY Penal Law § 10 (11) (McKinney 2013)
[5] NY Penal Law § 10 (9) (McKinney 2013)
[6] NY Penal Law § 10 (10) (McKinney 2013)
[7] NY Penal Law and § 35.30(1) (McKinney 2013)
[8] *Graham*, 490 U.S. at 396 (1989)

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;[9]

2. The level and immediacy of threat or resistance posed by the suspect;[10]

3. The potential for injury to citizens, officers, and suspects;[11]

4. The risk or attempt of the suspect to escape;[12]

5. The knowledge, training, and experience of the officer;[13]

6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;[14]

7. Other environmental conditions or exigent circumstances.[15]

VI. DUTY TO INTERVENE

A. Any officer present and observing another 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 officer has a realistic opportunity to prevent harm.

B. An officer who observes another 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.

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[9] *Ibid.*
[10] *Ibid.*
[11] *Scott v. Harris*, 550 U.S. 372 (2007)
[12] *Graham*, 490 U.S. at 396 (1989)
[13] Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. *Graham v. Connor*, 490 U.S. 386 (1989), *Terry v. Ohio*, 392 U.S. 1 (1968)
[14] *Sharrar v. Felsing*, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects)
[15] Courts have repeatedly declined to provide an exhaustive listing of factors. Chew *v. Gates*, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994)

VII. USE OF DEADLY PHYSICAL FORCE

A. 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.[16]

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

1. 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,

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

3. Where feasible, some warning should be given prior to the use of deadly physical force.[17]

C. Chokeholds and Obstruction of Breathing or Blood Circulation

1. 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, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized.[18]

VIII. PROHIBITED USES OF FORCE

A. Force shall not be used by an officer 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;

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[16] NY Penal Law and § 35.30(1)(c)(McKinney 2013)
[17] NY Penal Law and § 35.30(1), as restricted by *Tennessee v. Garner*, 471 U.S. 1 (1985) (restricting the use of deadly physical force as it relates to fleeing felons) In *Garner*, the Supreme Court uses "significant threat of serious physical harm, either to the officer or others" in describing the limited circumstances under which deadly force can be used to prevent the escape of a felon.
[18] NY Penal Law § 121.13-a establishes the crime of Aggravated Strangulation.

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 police or peace officer or other law enforcement entity 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.[19]

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 others.[20]

B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force 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.

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[19] NY Civil Rights Law § 28
[20] NY Mental Hygiene Law § 9.41

5. Incidents where a firearm was discharged at a subject.[21]

C. A standardized use of force form should be used to document any reportable use of force incident.[22]

D. Officers should document any requests for necessary medical or mental health treatment as well as efforts of police 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 force investigation.

B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.

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

D. The [applicable person, unit, or bureau] will receive the supervisor's report and conduct an investigation.

E. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines.[23]

XI. TRAINING

A. All officers should receive training and demonstrate their understanding on the proper application of force.

B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies,

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[21] NY EXC § 837-v requires that any discharge of a weapon, while either on duty or off duty, in the direction of a person be verbally reported to the involved officer's supervisor within six hours and a written report prepared within forty-eight hours of occurrence.
[22] Chiefs of police departments, County Sheriffs, and the Superintendent of State Police should consider utilizing these forms to ensure compliance with the administrative reporting requirement of EXC §837-t.
[23] NY EXC § 840(4)(d)(2)(vi)

including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.[24]

C. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

[24] EXC § 840(4)(d)(2)(vii)

Schoharie County Sheriff's Office

Subject: Provisions BODYCAM "Body-Worn Cameras" Recording System						Policy: BC120
References/Standards:						
Effective: January 14, 2020			Distribution: All Personnel		Amends:	
Prepared by: Sheriff Ronald R. Stevens			Revised:		Rescinded:	
Reviewed Date:						

PURPOSE:

To establish uniform guidelines for the use of the Provisions BODYCAM "Body-Worn Cameras" recording system. The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bite hard drives. Once captured, these recording cannot be altered in any way

POLICY:

The Schoharie County Sheriff's Office has adopted the use of the Provisions BODYCAM "Body-Worn Cameras" recording system to accomplish the following policy goals:

A. To enhance Deputy and Investigators safety.
B. To accurately capture statements and events during the course of an incident.
C. To enhance the Deputies and Investigators ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation.
D. To provide an impartial measurement for self-critique and field evaluation for new Deputy training.
E. To capture visual and audio information for use in current and future investigations.
F. To enhance the public trust by preserving factual representation of Deputy/Investigator-citizen interactions in the form of audio and video recording.

All Deputies and Investigators that have been issued a Provisions BODYCAM "Body-Worn Cameras" recording system shall wear it on their uniform at all times, with the exception of training days, funerals, award ceremonies, or other events approved by a supervisor.
The use of personal cell phones or electronics to view or categorize data is PROHIBITED.

TRAINING:

A. Deputies and Investigators will not utilize the "Body-Worn Cameras "recording system until they have received the proper training.

B. Training will consist of, but not limited to:
1. A review of the system, its functions, proper usage, activation and deactivation.
2. A review of the user manual and SCSO policy governing its use.
3. A hands-on review of the "On Deputy" video recording system.
4. The retention and storage features and procedures for placing data into evidence.

C. Normal (Buffering) Mode — The Provisions BODYCAM "Body-Worn Cameras" recording system will be set at a continuous 30 second loop at which time video only (No audio) will be recorded while buffering.

D. Event Mode — Once activated, the Provisions BODYCAM "Body-Worn Cameras" video recording system saves the buffered video and continues recording audio and video for up to eight (8) hours. Pressing the function button places markers on the media segment for later viewing in EVIDENCE.com,

OPERATIONAL PROTOCOLS:

A. If assigned a Provisions BODYCAM "Body-Worn Cameras" recording system it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the Provisions BODYCAM "Body-Worn Cameras" recording system in the scope of his/her duties.

B. It will be the responsibility of each Deputy or Investigator that once the Provisions BODYCAM "Body-Worn Cameras" recording system has been activated; it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene, or the citizen contact is complete.

C. There will be times when, due to the nature of law enforcement work, exigent circumstances prevent the Deputy or Investigator from activating the "Body-Worn Cameras" video recording system.

1. In those types of events the Deputy or Investigator will document the reason for not activating the "On Deputy" video recording system.

D. Deputy or Investigator will avoid recording a *child victim* of any sex offense.

1. In the event that the report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort will be made to discontinue recording promptly in accordance with policy.

E. To respect the dignity of others, Deputies *should advise persons who are nude or whose sensitive human areas are exposed of recording.*

F. The Provisions BODYCAM "Body-Worn Cameras" recording system will not be used to record personal activity.

G. The Provisions BODYCAM "Body-Worn Cameras" recording system will be turned off for any courtroom testimony, this does not apply to Deputy Sheriff's assigned as court security.

H. The Provisions BODYCAM "Body-Worn Cameras" recording system shall not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-law enforcement related activities.

I. Deputies and Investigators will avoid recording any interactions with informants or undercover Officers.

J. Deputies and Investigators will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the Deputy will immediately notify their supervisor, document the malfunction and the supervisor is responsible to notify the Undersheriff, or their designee.

K. Deputies and Investigators will immediately report any loss or missing part of the "Body-Worn Cameras" recording system to their supervisor and will prepare a report outlining such loss or missing part. The supervisor is responsible for making immediate notification to the Undersheriff, or their designee.

L. Corrections Division Shift Supervisors will wear the Provisions BODYCAM during each respective tour of duty. Supervisors will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the supervisor will immediately document the malfunction and the supervisor is responsible to notify the Jail Administrator, Undersheriff, or their designee.

M. Corrections Division Shift Supervisors will activate the BODYCAM recording system at anytime there is disruption, use of force, inmate disciplinary interviews or hearings, search of the facility for contraband, or other criminal act within the facility. Such recording will continue until the incident has been deemed concluded and the facility has been made safe.

EVIDENTIARY PROTOCOLS:

A. At the end of their shift, or periodically during shift, deputies and Investigators will place the Provisions Camera and battery into a designated slot of the Docking Station, which will allow the data to be transferred from the Provisions camera through the ETM to a terra bite storage hard drive. If a deputy chooses to leave the Provisions camera in a Docking Station at end of shift, he/she must immediately retrieve it at beginning of their next shift, unless there is an emergency call requiring immediate response.

B. Deputies and Investigators will not allow citizens to review any recordings.

C. The release of audio/video data requested through a public records release request will be subject to the same statutory exemptions from disclosure as any other departmental records.

D. Deputies and investigators will not make copies of any recording for their personal use and are prohibited from using a recording device (such as a telephone, camera or secondary video camera) to record any media stored on Sheriff's Office evidence hard drive or the Provisions Camera unit.

E. Deputies and Investigators will have the ability to review their recordings to ensure accurate written reports but will not be able to alter the contents of any audio/video recording that has been recorded.

A 710.30 Notice must be prepared, or the District Attorney's Office notified that the Deputy or Investigator intends to use any of the defendant's recorded audio or video recorded statements for prosecution.

F. All digital media collected using the Provisions BODYCAM "Body-Worn Cameras" recording system is considered an official record of the Schoharie County Sheriff's Office. Accessing, copying or releasing any media for other than official law enforcement purposes is strictly prohibited, except as required by law.

G. In the event that a particular recording is required for any court proceeding it is the Deputies or Investigators responsibility to notify the Undersheriff, or their designee, in writing requesting a copy of the stored data for that purpose. The Undersheriff or their designee, will make a notation in the case report that a copy of the video recording was made and was turned over to whoever requested such recording.

a **attached Property/Evidence Pull Request Form*

ADMINISTRATOR RIGHTS:

The Undersheriff, Sheriff or their designee(s), shall be the only person(s) within the SCSO to have administrator rights to all recordings stored on the Sheriff's Office Evidence hard drives or their back systems.

New York Laws

New York State Law

Penal Law

Consolidated Laws of New York's Penal code

Search Penal Laws

Penal Law Search

PEN Search Term Search

Article 35 - NY Penal Law

NY Laws › Penal Law › Part 1 › Title C › Article 35

DEFENSE OF JUSTIFICATION

Section	Description
35.00	Justification; a defense.
35.05	Justification; generally.
35.10	Justification; use of physical force generally.
35.15	Justification; use of physical force in defense of a person.
35.20	Justification; use of physical force in defense of premises and in defense of a person in the course of burglary.
35.25	Justification; use of physical force to prevent or terminate larceny or criminal mischief.
35.27	Justification; use of physical force in resisting arrest prohibited.

Section	Description
35.30	Justification; use of physical force in making an arrest or in preventing an escape.

S 35.00 Justification; a defense.

In any prosecution for an offense, justification, as defined in sections 35.05 through 35.30, is a defense.

S 35.05 Justification; generally.

Unless otherwise limited by the ensuing provisions of this article defining justifiable use of physical force, conduct which would otherwise constitute an offense is justifiable and not criminal when:

1. Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his official powers, duties or functions; or

2. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue. The necessity and justifiability of such conduct may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this subdivision is offered by the defendant, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a defense.

S 35.10 Justification; use of physical force generally.

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent, guardian or other person entrusted with the care and

supervision of a person under the age of twenty-one or an incompetent person, and a teacher or other person entrusted with the care and supervision of a person under the age of twenty-one for a special purpose, may use physical force, but not deadly physical force, upon such person when and to the extent that he reasonably believes it necessary to maintain discipline or to promote the welfare of such person.

2. A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use such physical force as is authorized by the correction law.

3. A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use physical force when and to the extent that he reasonably believes it necessary to maintain order, but he may use deadly physical force only when he reasonably believes it necessary to prevent death or serious physical injury.

4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon such person to the extent that he reasonably believes it necessary to thwart such result.

5. A duly licensed physician, or a person acting under a physician's direction, may use physical force for the purpose of administering a recognized form of treatment which he or she reasonably believes to be adapted to promoting the physical or mental health of the patient if (a) the treatment is administered with the consent of the patient or, if the patient is under the age of eighteen years or an incompetent person, with the consent of the parent, guardian or other person entrusted with the patient's care and supervision, or (b) the treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

6. A person may, pursuant to the ensuing provisions of this article, use physical force upon another person in self-defense or defense of a third person, or in defense of premises, or in order to prevent larceny of or criminal mischief to property, or in order to effect an arrest or prevent an escape from custody. Whenever a person is authorized by any

such provision to use deadly physical force in any given circumstance, nothing contained in any other such provision may be deemed to negate or qualify such authorization.

S 35.15 Justification; use of physical force in defense of a person.

1. A person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless:

(a) The latter's conduct was provoked by the actor with intent to cause physical injury to another person; or

(b) The actor was the initial aggressor; except that in such case the use of physical force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force; or

(c) The physical force involved is the product of a combat by agreement not specifically authorized by law.

2. A person may not use deadly physical force upon another person under circumstances specified in subdivision one unless:

(a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is:

(i) in his or her dwelling and not the initial aggressor; or

(ii) a police officer or peace officer or a person assisting a police officer or a peace officer at the latter`s direction, acting pursuant to section 35.30; or

(b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible criminal sexual act or robbery; or

(c) He or she reasonably believes that such other person is committing

or attempting to commit a burglary, and the circumstances are such that the use of deadly physical force is authorized by subdivision three of section 35.20.

S 35.20 Justification; use of physical force in defense of premises and in defense of a person in the course of burglary.

1. Any person may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a crime involving damage to premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force if he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of arson.

2. A person in possession or control of any premises, or a person licensed or privileged to be thereon or therein, may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a criminal trespass upon such premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force in order to prevent or terminate the commission or attempted commission of arson, as prescribed in subdivision one, or in the course of a burglary or attempted burglary, as prescribed in subdivision three.

3. A person in possession or control of, or licensed or privileged to be in, a dwelling or an occupied building, who reasonably believes that another person is committing or attempting to commit a burglary of such dwelling or building, may use deadly physical force upon such other person when he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of such burglary.

4. As used in this section, the following terms have the following meanings:

(a) The terms "premises," "building" and "dwelling" have the meanings prescribed in section 140.00;

(b) Persons "licensed or privileged" to be in buildings or upon other premises include, but are not limited to:

(i) police officers or peace officers acting in the performance of their duties; and

(ii) security personnel or employees of nuclear powered electric generating facilities located within the state who are employed as part of any security plan approved by the federal operating license agencies acting in the performance of their duties at such generating facilities. For purposes of this subparagraph, the term "nuclear powered electric generating facility" shall mean a facility that generates electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located and the safety and security zones as defined under federal regulations.

S 35.25 Justification; use of physical force to prevent or terminate larceny or criminal mischief.

A person may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of larceny or of criminal mischief with respect to property other than premises.

S 35.27 Justification; use of physical force in resisting arrest prohibited.

A person may not use physical force to resist an arrest, whether authorized or unauthorized, which is being effected or attempted by a police officer or peace officer when it would reasonably appear that the latter is a police officer or peace officer.

S 35.30 Justification; use of physical force in making an arrest or in preventing an escape.

1. A police officer or a peace 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 or she reasonably

believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of physical force; except that deadly physical force may be used for such purposes only when he or she reasonably believes that:

(a) The offense committed by such person was:

(i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or

(ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or

(b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.

2. The fact that a police officer or a peace officer is justified in using deadly physical force under circumstances prescribed in paragraphs (a) and (b) of subdivision one does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he or she is not seeking to arrest or retain in custody.

3. A person who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that he or she reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless he or she knows that the arrest or prospective arrest is not or was not authorized and may use deadly physical force under such circumstances when:

(a) He or she reasonably believes such to be necessary for

self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or

(b) He or she is directed or authorized by such police officer or peace officer to use deadly physical force unless he or she knows that the police officer or peace officer is not authorized to use deadly physical force under the circumstances.

4. A private person acting on his or her own account may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to:

(a) Defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or

(b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom.

5. A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, as that term is defined in section 205.00, or while in transit to or from a detention facility, may use physical force when and to the extent that he or she reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or therefrom.

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NOTE: Penal Law code reviewed as of 01/01/2019. Several corrections/updates were made.

THOMSON REUTERS
WESTLAW New York Codes, Rules and Regulations

9 CRR-NY 6058.3
NY-CRR
OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 9. EXECUTIVE DEPARTMENT
SUBTITLE U. DIVISION OF CRIMINAL JUSTICE SERVICES
CHAPTER II. IDENTIFICATION AND INFORMATIONAL SERVICES
PART 6058. USE OF FORCE DATA COLLECTION, ANALYSIS AND REPORTING

9 CRR-NY 6058.3
9 CRR-NY 6058.3

6058.3 Employer reporting requirements.

(a) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any instance or occurrence where a police or peace officer employed by it employs use of force.

(b) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, with respect to each use of force event reported, submit or cause to be submitted the following:

(1) the type of use of force;

(2) the date of the event;

(3) village, town, or city, and county location of the event;

(4) the law enforcement agencies involved;

(5) a description of the circumstances of the event;

(6) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons engaging in the use of force; and

(7) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

(c) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any additional information the commissioner may require the employer to report, including, but not limited to, use of force events and incident information, subject information, and officer information related to each event as required by the FBI in coordination with the FBI's Uniform Crime Reporting (UCR) Program.

9 CRR-NY 6058.3
Current through April 15, 2020

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New York Consolidated Laws, Executive Law - EXC § 840. Functions, powers and duties of council

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1. The council may recommend to the governor rules and regulations with respect to:

(a) The approval, or revocation thereof, of police training schools administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved municipal police training schools;

(c) Minimum qualifications for instructors at approved police training schools;

(d) The requirements of minimum basic training which police officers appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(e) The requirements of minimum basic training which police officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(f) The requirements of minimum basic training which peace officers must complete before being eligible for certification as peace officers, pursuant to section 2.30 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=LQ&originatingDoc=I26e1de80ccaf11e8964de4

(g) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; and

(h) Exemptions from particular provisions of this article in the case of any city having a population of one million or more, or in the case of the state department of corrections and community supervision if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are lower than those established pursuant to this article.

(i) The establishment, in cooperation with the division of state police, of a formalized consumer product tampering training program for all law enforcement personnel.

(j) (1) Development, maintenance and dissemination of written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; (2) establishment and implementation on an ongoing basis, of a training program for all current and new police officers regarding the policies and procedures established pursuant to this paragraph; and (3) establishment of a training program for police officers whose main responsibilities are juveniles and the laws pertaining thereto, which training program shall be successfully completed before such officers are accredited pursuant to section eight hundred forty-six-h (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=LQ&originatingDoc=I26e22ca0ccaf11e8964de4: of this chapter.

(k) Development, maintenance and dissemination, in consultation with the department of agriculture and markets, of written policies and procedures pursuant to animal cruelty and protection laws, including, but not limited to, article twenty-six of the agriculture and markets law, section 352.3 of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=LQ&originatingDoc=I26e253b0ccaf11e8964de4 as it applies to companion animals, and applicable provisions of the penal law, regarding the investigation and prevention of any act of cruelty to animals. The council shall make provisions in such policies and procedures for the education and training in enforcement of such animal cruelty and protection laws.

(l) Exemptions from particular provisions of this article in the case of peace officers appointed by the superintendent of state police if in its opinion the standards of peace officer training provided by the division of state police exceed those established pursuant to this article.

(m) Establishment and implementation on an ongoing basis, of a training program for all current and new police officers and peace officers regarding the policies and procedures established pursuant to paragraph (k) of this subdivision.

2. The council shall promulgate, and may from time to time amend, such rules and regulations prescribing height, weight and physical fitness requirements for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as police officers of any county, city, town, village or police district as it deems necessary and proper for the efficient performance of police duties.

2-a. The council, in consultation with the state commission of correction, shall promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of basic and other correctional training programs administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved basic and other correctional training programs;

(c) Minimum qualifications for instructors at approved basic and other correctional training programs; and

(d) The requirements of a minimum basic correctional training program required by subdivision nine of section eight hundred thirty-seven-a (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e2eff0ccaf11e8964de43 of this article.

3. The council shall, in addition:

(a) Consult with, advise and make recommendations to the commissioner with respect to the exercise of his or her functions, powers and duties as set forth in section eight hundred forty-one (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=LQ&originatingDoc=I26e31700ccaf11e8964de4 of this article;

(b) Recommend studies, surveys and reports to be made by the commissioner regarding the carrying out of the objectives and purposes of this section;

(c) Visit and inspect any police training school and correctional training programs approved by the commissioner or for which application for such approval has been made;

(d) Make recommendations, from time to time, to the commissioner, the governor and the legislature, regarding the carrying out of the purposes of this section;

(e) Perform such other acts as may be necessary or appropriate to carry out the functions of the council;

(f) Develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention by new and veteran police officers in incidents of family offenses. Such policies and procedures shall make provisions for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(1) intake and recording of victim statements, and the prompt translation of such statements if made in a language other than English, in accordance with subparagraph three of this paragraph, on a standardized "domestic violence incident report form" promulgated by the division of criminal justice services in consultation with the superintendent of state police, representatives of local police forces and the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=LQ&originatingDoc=I26e38c30ccaf11e8964de and section 530.11 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=LQ&originatingDoc=I26e38c31ccaf11e8964de and

(2) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=SP&originatingDoc=I26e3b340ccaf11e8964de and notifying victims of their rights, in their native language, if identified as other than English, in accordance with subparagraph three of this paragraph, including but not limited to immediately providing the victim with the written notice required in subdivision six of section 530.11 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=SP&originatingDoc=I26e3b341ccaf11e8964de and subdivision five of section eight hundred twelve of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=SP&originatingDoc=I26e3b342ccaf11e8964de

(3) determine, in consultation with the superintendent of state police and the office for the prevention of domestic violence, the languages in which such translation required by subparagraph one of this paragraph, and the notification required by subparagraph two of this paragraph, shall be provided. Such determination shall be based on the size of the New York state population that speaks each language and any other relevant factor. Such written notice required pursuant to subparagraph two of this paragraph shall be made available to all local law enforcement agencies throughout the state. Nothing in this paragraph shall prevent the council from using the determinations made by the superintendent of state police pursuant to subdivision (c) of section two hundred fourteen-b (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e3da50ccaf11e8964de of this chapter;

(f-1) Develop, maintain and disseminate, in consultation with the office of temporary and disability assistance and the division of criminal justice services, written policies and procedures regarding human trafficking victims. Such policies and procedures shall include, but not be limited to the following: (1) the identification of potential victims of human trafficking, as defined under section four hundred eighty-three-aa of the social services law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000136&refType=LQ&originatingDoc=I26e40160ccaf11e8964de4AA); and (2) information and/or referral to appropriate social and legal services for victims of human trafficking in accordance with section four hundred eighty-three-bb of the social services law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000136&refType=LQ&originatingDoc=I26e40161ccaf11e8964de4BB);

(g) Develop, maintain and disseminate, in consultation with the state division of human rights and the state civil service department, written policies and procedures to enhance police and correctional officer recruitment efforts and to increase police and correctional officer awareness of racial, ethnic, religious and gender differences, and other diversity issues, in communities served by such police and in correctional facilities; and

(h) Consult with the state commission of correction regarding correctional training programs.

4. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with rape crisis centers experienced in assisting victims in this state, written policies and procedures consistent with applicable provisions of the family court act, domestic relations law, criminal procedure law and the penal law, regarding the investigation of and intervention by new and veteran police officers in crimes involving sexual assault. Such policies and procedures shall make provisions for education and training of new and veteran police officers in the investigation and enforcement of crimes involving sexual assault under state law, including but not limited to:

(1) techniques for interviewing sexual assault victims,

(2) fair treatment standards for crime victims pursuant to article twenty-three of this chapter,

(3) evidence gathering and evidence preservation, and

(4) dissemination of information concerning availability of local services for the victims of such crimes; and

(b) Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

(c) Disseminate the written policies and procedures promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e4c4b0ccaf11e8964de4 of this article to all police departments in this state and implement a training program for all current and new police officers regarding the policies and procedures established pursuant to such subdivision.

5. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000105&refType=LQ&originatingDoc=I26e4ebc0ccaf11e8964de4 regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

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Read this complete New York Consolidated Laws, Executive Law - EXC § 840. Functions, powers and duties of council on Westlaw (https://1.next.westlaw.com/Document/I9D1172001FA211E9B4DE89E619644DD8/View/FullText.html?originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

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Bruce Baker

From: [redacted](DCJS) [redacted]@dcjs.ny.gov>
Sent: Monday, November 30, 2020 9:42 AM
To: [redacted](DCJS); Bruce Baker
Subject: RE: Use of Force Question

Hi Bruce,

Thanks for reaching out. We stopped using the continuum as a training aid a few years ago with the adoption of the new *Use of Physical Force and Deadly Physical Force* lesson plan in the Basic Course for Police Officers which was required to be taught beginning in 2018. If you recall, previously the section was much shorter and essentially consisted of a restatement of Article 35. We determined that this was the wrong approach for several reasons, not the least of which is that Article 35 is a defense to criminal liability and not a decision-making tool for police officers and the fact that Article 35 excuses conduct that would clearly be unconstitutional. The continuum was actually in the Defensive Tactics program, but we dropped it there too.

Your reference to the continuum as a "standard" illustrates one of the problems with the continuum. Use of force use of force continuums were developed as *training tools* – many before the current controlling case law was even decided. Prior to the effective use of 42 U.S.C. §1983 to address police use of excessive force in the 70's & 80's, agencies were left to train officers on use of force using state justification statutes like Article 35. Many states didn't (and still don't) have similar statues and the current case law hadn't yet been decided. What was seen as controlling was the *Glick* decision which, relying on a test devised in 1952(!), was widely interpreted to require that a plaintiff claiming excessive force show that an officer acted with malice in applying force "for the purpose of causing harm." Since the constitutional standard could not be trained to (how do you train cops not to act sadistically or maliciously?), agencies devised use of force continuums to assist officers in understanding what was expected of them. Again, during this time, the case law was not instructive, because the substantive due process analysis that existed provide no guidance to officers. So LAPD came up with their thermometer style and other agencies came up with pyramids, step-ladders, and eventually circular shapes.

In 1989, the United States Supreme Court, in a 9-0 decision, declared that use of force by law enforcement officers was a question not of the 14th Amendment's Due Process clause, but of the 4th Amendment's protection against unreasonable searches and seizures. In doing so, they made the question one of *objective reasonableness* and removed the requirement that a plaintiff show that an officer's use of force "shocks the conscience." Additionally, they declared that this standard required a careful balancing of the rights of the individual with the legitimate interest of government and required an analysis of the "totality of the circumstances" of the situation. They also cautioned that the standard was not capable of "precise definition or mechanical application." But law enforcement already had their continuums and law enforcement trainers were already training with them, so police training went largely unchanged.

But the standard *had* changed. And here's where I want to stress that continuums were never a standard... they were a training tool to be used in the *absence* of a workable standard, which is what we had before under the hodgepodge of state laws and the substantive due process standard under the constitution. But 31 years ago, SCOTUS gave us a standard that is workable and is trainable and takes into account the rights of citizens and balances them with the legitimate interest of government, again in a unanimous Court decision. And the courts – SCOTUS and the lower courts – kept giving them to us. We've got decision after decision that

can be used to training police officers in the lawful use of force. Of course, there are policy provisions that an agency may choose to enact that are not necessarily constitutionally unreasonable... shooting at moving vehicles or banning of neck restraints. There's nothing preventing an agency from adopting those provisions within policy and training to them.

Continuums are not a standard but have become to be viewed as such; they are the attempt at a mechanical application that SCOTUS warned us about. No matter how complex they become or what shape they take, they cannot allow for a consideration of the totality of the circumstances which is what's required by the constitution. They don't, for instance, tell an officer that a 35 year old man with a baseball bat is not the same as a 10 year old armed with one or that a Taser on a fire escape is a different amount of force than a Taser in the grass. They don't differentiate between closed fist strikes to a person who is against a wall vs a person who is not. They can't account for the relevance of the number of officers or suspects or the size, age, or physical condition of those suspects. They can't account for mental condition, known physical abilities, or known violent history of a suspect. All of these things (and more) are required to be considered by the constitution.

One final critique of continuums (but I have more)... the argument that a color-coded chart can be used to help an officer make a decision is laughable to anyone who's ever made a decision under time compressed, rapidly evolving, and uncertain circumstances – the very definition of the police decision-making environment. That's simply not how human beings make decisions and that rational decision-making model has been rejected by those that study decision-making of the type engaged in by police officers. If you'd like to talk further, I'd be happy to. Additionally, I might suggest keeping an eye out for our 2-day Use of Force Refresher course where we going into the constitutional standard in great detail and discuss methods to train it too. There are none currently scheduled, but that should change soon!

Best,

[redacted]
–
[redacted]
Senior Training Technician - Police, Office of Public Safety

NYS Division of Criminal Justice Services
80 South Swan Street
Albany, New York 12210
(518) 457-4917 | (518) 457-0145 | [redacted]@dcjs.ny.gov
http://www.criminaljustice.ny.gov/

P.S. - Here's a webinar that Daigle Law Group recently conducted on use of force continuums: https://dlglearningcenter.com/free-webinar-use-of-force-continuum/

From: [redacted] (DCJS) <[redacted]@dcjs.ny.gov>
Sent: Friday, November 27, 2020 10:48 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Cc: [redacted] (DCJS) <[redacted]@dcjs.ny.gov>
Subject: RE: Use of Force Question

Bruce,

I am copying [redacted] in my response, as he is best to answer the questions regarding the continuum. I have attached a copy of the MPTC model policy for your review in case you have not had a chance to review it. It may help with some of your questions until [redacted] is able to respond.

[redacted] will get back to you early next week.

Thank you,

[redacted]
Associate Training Technician (Police)
Office of Public Safety

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, NY 12210
(518) 485[redacted] F(518) 457-0145|[redacted]ny.gov

From: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Sent: Friday, November 27, 2020 10:39 AM
To: [redacted]@dcjs.ny.gov>
Subject: Use of Force Question

[redacted]

Good morning-
As part of the Governors reform order, I have been assigned to the Sheriff's Office task force. As such, our community representatives have been pursuing input with regards to our use of force policy. They frequently sight Campaign Zero and similar groups that seek a use of force continuum rather than NYS's objective reasonableness approach. As such, we have tried to explain the fact that NYS has determined the standard and as such trains officers to that standard.
I am wondering if you could possibly tell me 1) When did NYS discontinue following the continuum standard? And 2) is there a specific document (outside of Graham v. Connor, or the training manual that would indicate the NYS reasoning?
We have completed our newest policy in accordance with the 2019/2020 legal updates and wish to roll it out, however we want to ensure the community we are not making an arbitrary decision to overlook the continuum ideal.
Any help would be greatly appreciated. Thank you

Investigator Bruce Baker
Schoharie County Sheriff's Office
157 Steadman Way
Howes Cave, N.Y. 12092
Desk 518.295.2209.
Dispatch 518.295.8114

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Schoharie County Sheriff's Office

Subject: USE OF FORCE						Policy: UF120
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Effective: January 14, 2020			Distribution: All Personnel		Amends:	
Prepared by: Sheriff Ronald R. Stevens			Revised:		Rescinded:	
Reviewed Date:						

SCHOHARIE COUNTY SHERIFF'S OFFICE – POLICY ON USE OF FORCE

The following content is derived from the Use of Force Model Policy (06/2019) produced by and used with the permission of the New York State Department of Criminal Justice Services and has been approved by the Municipal Police Training Council.

I. PURPOSE

Law enforcement officers 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 to individual agencies as they develop their own use of force policies in accordance with Executive Law §840(4)(d)(3).

This policy is not intended to endorse or prohibit any particular tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

II. POLICY

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.1 The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer 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 officers 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."2

This policy is written in recognition of 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 a careful balancing of all interests.

III. DEFINITIONS

A. Objectively Reasonable – An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable 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 officer at the time that the force was used.3
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.4
C. Physical Injury – Impairment of physical condition or substantial pain.5
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.6

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.7
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.8

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 officer 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;9
2. The level and immediacy of threat or resistance posed by the suspect;10
3. The potential for injury to citizens, officers, and suspects;11
4. The risk or attempt of the suspect to escape;12
5. The knowledge, training, and experience of the officer;13
6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;14
7. Other environmental conditions or exigent circumstances.15

VI. DUTY TO INTERVENE

A. Any officer present and observing another 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 officer has a realistic opportunity to prevent harm.
B. An officer who observes another 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 an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.16

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

1. 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,
2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
3. Where feasible, some warning should be given prior to the use of deadly physical force.17

VIII. PROHIBITED USES OF FORCE

A. Force shall not be used by an officer 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. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.

B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force 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 standardized use of force form should be used to document any reportable use of force incident.18

X. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

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

B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.

1 Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness.

2 Graham v. Connor, 490 U.S. 386 at 396 (1989).

3 Graham, 490 U.S. 396 (1989)

4 NY Penal Law § 10 (11) (McKinney 2013)

5 NY Penal Law § 10 (9) (McKinney 2013)

6 NY Penal Law § 10 (10) (McKinney 2013)

7 NY Penal Law and § 35.30(1) (McKinney 2013)

8 Graham, 490 U.S. at 396 (1989)

9 Ibid.

10 Ibid.

11 Scott v. Harris, 550 U.S. 372 (2007)

12 Graham, 490 U.S. at 396 (1989)

13 Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. Graham v. Connor, 490 U.S. 386 (1989), Terry v. Ohio, 392 U.S. 1 (1968)

14 Sharrar v. Felsing, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects)

15 Courts have repeatedly declined to provide an exhaustive listing of factors. Chew v. Gates, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994)

16 NY Penal Law and § 35.30(1)(c)(McKinney 2013)

17 NY Penal Law and § 35.30(1), as restricted by Tennessee v. Garner, 471 U.S. 1 (1985) (restricting the use of deadly physical force as it relates to fleeing felons) In Garner, the Supreme Court uses "significant threat of serious physical harm, either to the officer or others" in describing the limited circumstances under which deadly force can be used to prevent the escape of a felon.

18 Chiefs of police departments, County Sheriffs, and the Superintendent of State Police should consider utilizing these forms to ensure compliance with the administrative reporting requirement

NEW YORK STATE | Division of Criminal Justice Services

MEMORANDUM

TO: New York State Police Departments and Sheriffs' Offices

FROM: Mary Schmitt, New York State Crime Reporting Program

DATE: October 26, 2020

SUBJECT: **REPORTING ALERT: IJ Portal Use of Force reporting interface to go live on December 1, 2020**

Beginning December 1, 2020, all police departments and sheriffs' offices and the New York State Police must submit use of force incidents that occur ***on or after November 1, 2020,*** through a new Use of Force Reporting Interface accessible through the eJustice New York Integrated Justice Portal (IJ Portal).

Police departments and sheriffs' offices must use the existing data collection tool to report use of force incidents occurring ***prior to November 1, 2020***. Agencies will have until **December 15, 2020** to submit new or update incidents that they have already reported. The existing data collection tool will be discontinued as of that date.

Agencies are expected to submit use of force incidents to the state Division of Criminal Justice Services (DCJS) no later than 30 days after a month ends (i.e. January data no later than the end of February).

Use of Force Data Reporting Requirements

As a reminder, state law (Executive Law 837-t) requires the chief of every police department, each county sheriff, and the superintendent of state police to report to DCJS any instance in which a police officer or a peace officer (Criminal Procedure Law 1.20.34 and 2.10) uses force.

The following Use of Force incidents must be reported:

Display a chemical agent - To point a chemical agent at a person or persons.

Use/Deploy a chemical agent - The operation of the chemical agent against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.

Brandishes a firearm - To point a firearm at a person or persons.

Uses/Discharges a firearm - To discharge a firearm at or in the direction of a person or persons.

Brandishes an electronic control weapon - To point an electronic control weapon at a person or persons.

Uses/Deploys electronic control weapon - The operation of an electronic control weapon against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.

Brandishes an impact weapon - To point an impact weapon at a person or persons.

Uses/deploys an impact weapon - The operation of an impact weapon against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.

Uses a chokehold or other similar restraint - Any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.

Conduct which results in the death or serious bodily injury of another person - Serious bodily injury includes bodily injury that creates or causes:

- a substantial risk of death; or
- unconsciousness; or
- serious and protracted disfigurement; or
- protracted loss or impairment of the function of any bodily member, organ or mental faculty.

Please contact DCJS at useofforce@dcjs.ny.gov for more information and/or questions about the use of force reporting process.

Accessing the Use of Force Reporting Interface

The Use of Force Reporting Interface is accessible through the IJ Portal, a secure site that requires a username and password to access. All new requests for IJ Portal accounts must be coordinated through an agency's designated Terminal Agency Coordinator (TAC). TACs can use the "Feedback" link in the IJ Portal or email portalhelpdesk@ejusticeny.gov with any questions about access.

Instructions for accessing the Interface and submitting monthly Use of Force incidents are attached and available on the DCJS website:

https://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/use-of-force.htm

BREAKING | Jun 16, 2020, 12:44pm EDT

Trump Signs Executive Order Banning Choke Holds 'Unless An Officer's Life Is At Risk'



Jack Brewster Forbes Staff
Business
I'm a news reporter for Forbes.

Updated Jun 16, 2020, 02:26pm EDT

TOPLINE President Trump signed an executive order Tuesday on police reform that bans choke holds "unless an officer's life is at risk," increases federal oversight of police departments and encourages departments to move toward better practices on use of force, though the order falls short of what activists are pushing for and ties its mandates to incentives.





Surrounded by members of law enforcement, President Trump signs an executive order on "Safe Policing ... [+] ALEX WONG/GETTY IMAGES

KEY FACTS

- Under the order, the federal government will require police departments to ban chokeholds, the police maneuver used by the Derek Chauvin in the killing of George Floyd, to receive certification that will allow them to access federal grants.
- It will also create a database to track police officers with several misconduct violations and push for departments to involve mental healthcare workers on calls dealing with homelessness, mental illness and addiction.
- Activist groups are expected to criticize the order as not doing enough: in the wake of George Floyd's death, protest groups, including Black Lives Matter, have pushed for sweeping reform, including "defunding the police."
- Trump decried the "radical and dangerous efforts to dissolve our police" during prepared remarks in the Rose Garden before he—surrounded by law enforcement—signed the order Tuesday, adding "without police, there is chaos."
- After discussing the policy details of his executive order, the president dedicated much of his remarks Tuesday toward decrying protesters and attacking the record of his predecessor, former president Barack Obama, and former vice president and presumptive Democratic nominee Joe Biden.

CRUCIAL QUOTE

Trump has rallied to the defense of police officers and argued Tuesday that police misconduct was the the work of a small percentage of police officers: "They're very tiny. I use the word tiny. It's a very small percentage. But you have them. But nobody wants to get rid of them more than the really good and great police officers."

KEY BACKGROUND

Trump said Tuesday that his executive order would go "hand in hand" with the bill Senate Republicans are working on—and implored GOP leadership to get a bill done quickly. Led by Sen. Tim Scott (R-S.C.), Republican senators are working to put together a bill that would increase training to focus on de-escalation tactics and lessen the potential for choke holds, among other measures. House Democrats are debating a bill that would ban choke holds outright, and no-knock warrants in drug cases, as was used in the fatal shooting of Breonna Taylor in Louisville, Kentucky, in March, and increase police accountability, among other reform measures.

CHIEF CRITIC

Democrats criticized the order for not going far enough: "While the president has finally acknowledged the need for policing reform, one modest executive order will not make up for his years of inflammatory rhetoric and policies designed to roll back the progress made in previous years," Senate Minority Leader Charles Schumer (D-N.Y.) said in a statement.

FURTHER READING

Trump To Sign Executive Order On Police Reform (NPR)

Trump Plans Executive Order To 'Encourage' Police Reform (Forbes)

Black Friday Deal: 30% off if you purchase by Wednesday 12/2. Subscribe Now

casetext Search all cases and statutes... JX Search Help Sign In Sign Up

N.Y. Penal Law § 121.13-A

Download PDF

Current through 2020 NY Law Chapter 286

Section 121.13-A - Aggravated strangulation

Aggravated strangulation. A person is guilty of aggravated strangulation when, being 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, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven-t of the executive law, and thereby causes serious physical injury or death to another person. Aggravated strangulation is a class C felony.

N.Y. Penal Law § 121.13-A

Added by New York Laws 2020, ch. 94,Sec. 2, eff. 6/12/2020.

Previous Section
Section 121.13 - Strangulation in the first degree

Next Section
Section 121.14 - Medical or dental purpose

Schoharie County Law Enforcement Review

November 17, 2020

Attendees: see attached list

Meeting called to order at 3:00 pm.

Next meeting will be December 1, 2020 at 5:00 pm here in the Board of Supervisors Room. Please call ahead to reserve a seat.

Chairman Federice – Our deadline to complete our review is March 31, 2021. So far, meetings have been focused based on process. We now want to open these meetings up to the community members for input, questions or concerns.

Sheriff Stevens – We want this to be more of a dialog, so we know what/if the community has for concerns.

Inv. Baker – Knowing what we have provided you up to this point – what we have for programs, what needs to be done, what doesn't need to be done, what the challenges are, etc. – what else is there that needs to be addressed?

Ms. Mallory – I have been attending Cobleskill Police Department's (CPD) meetings. One of the strengths in Schoharie County is that the Law Enforcement agencies work very well together. As many of you know, at night we have limited coverage and Law Enforcement staff on the roads. My concern is that when there is a Law Enforcement issue, the policies are so rigid or different between the agencies and will cause problems. This should be a collaborative effort with all Law Enforcement entities.

Sheriff Stevens – We all work off the same model from the Department of Criminal Justice Services, which is what Lexipol works from.

Ms. Hults – People from the community have not seen any of the policies and we would like an opportunity for input.

Inv. Baker – Are there specific items that you want addressed?

Ms. Hults – We just want a chance to see and intervene and could have input.

Sheriff Stevens – Lexipol provides the framework and we make it ours. Email our office your specific questions or concerns so we can have a prepared answer at the next meeting.

Ms. Hults – We didn't realize that you would be looking for input today.

Inv. Baker – You have listened to us for the past 2 months. It's time we hear from you. I have reached out to some younger people to add to this committee to provide us with a more age demographic.

Ms. Hults – If you give us a topic you will talk about at each meeting, we can come prepared with questions. But I think that Use of Force is an important topic.

Inv. Baker – Let's address the primary concerns first and work out the rest as we go.

Chairman Federice – Our first topic next meeting should be Use of Force. Maybe the Sheriff's office can provide a draft of the Use of Force policy to review.

Mr. Harrison – Use of Force is always a touchy policy. The temperament of everyone is different; therefore, responses are different. But I was hoping that there could be a more uniform response to Use of Force. All Law Enforcement may receive the same training, but some respond differently. I saw an incident at a riot in NYC where a woman was in an officer's face screaming and yelling while he stayed completely calm and professional; until she spit in his face. I think some Law Enforcement officers can handle having a gun in their face rather than being spit on. It's the disrespect. People don't like to be disrespected. How about role playing situations? Because I may react differently than you or than the next person.

Inv. Baker – There is more scenario-based training at the Academy. I do agree that it may be more intense with verbal aggression than with weapons.

Chairman Federice – I feel that spitting at someone is an act of violence.

Sheriff Stevens – Not all of us are born with the same attributes, therefore everyone deals with situations differently. Some things in civil service law make it difficult because a person that has the highest score may not have what it takes to be in Law Enforcement.

Inv. Baker – There is a policy called Duty to Intervene and we also call it "tap out". If an officer witnesses another officer losing control of a situation or not handling it properly, the officer has the duty to intervene or "tap out" the struggling officer and take control of the situation.

Ms. Hults – Another concern is how often are trainings done?

Inv. Baker – Annually.

Ms. Hults – If all these trainings are in place, then why are all these egregious acts still happening?

Sheriff Stevens – Because we are all just human beings. I see videos and the news and I say "I wouldn't have done it that way" or "Why did they do it that way?", but I was not there and you have no idea what someone may be going through that day or that week that could contribute to the situation. A bad police officer hurts no one more than a good police officer. I do receive a lot of "good guy" letters each week.

Ms. Ellis – I am hopeful that there are many supports and programs in place for Law Enforcement officers. One thing that is helpful is to monitor the diversions that have come through the LEAD Program versus the diversions that could have come through. This may help show which officers are diverting and for what situations and reasons. We can then provide in-reach or out-reach to other officers to help guide and provide them support.

Pastor Richards – What Sheriff Stevens said that "one bad officer hurts no one more than a good officer" is so true. It's more of accountability. We may tend to just move someone around or readjust rather than deal with the "bad apple". Everything rises and falls with leadership. If the leadership isn't healthy and solid then neither will the rest be. As a pastor I have been called in to deescalate a situation, therefore I think that we all should have access to training in de-escalation, mental health awareness training and access to assistance.

Mr. Harrison – I like the idea of Collaborative Partnership policing.

Pastor Richards – There is just so much more you can do collaboratively with greater resources. I do feel that this County has great Law Enforcement.

Ms. Nicosia – Are these things that we can fold into the new policies or is this parallel? Is there a way to work collaboratively? Is that part of the Executive Order? Is LEAD part of the Executive Order?

Inv. Baker – LEAD is a part of the Executive Order and has its own separate policies and guidelines and was in place prior to the Executive Order. The LEAD program is not a Sheriff's Department program; it is a Catholic Charities program.

Ms. Nicosia – Let me rephrase. Is there a way to formalize these collaboration efforts, as it seems like everyone here agrees?

Chairman Federice – With Executive Order 203, there are specific things that must be accomplished working collaboratively with this committee and members of the community. Those recommendations make up the plan that will be presented to the full Board of Supervisors and then voted on either as a Local Law or a Resolution. That is why I feel that we need to wrap up our meetings no later than January 31, 2021 so that there is enough time to finalize the plan and present it. If it is going to be by Local Law then it needs to be presented 30 days prior to April 1, 2021, which is the date that the certified adoption of the plan needs to be received by the State Budget Director. Any other questions?

Mr. Harrison – Yes! Sheriff Stevens do you have the flexibility through civil service to hire not based on test scores?

Sheriff Stevens – Not necessarily. Civil service has requirements and so does Law Enforcement so sometimes we have to be creative in choosing the best candidate for the job. We are hoping that some of what happens from this Executive Order will change the civil service guidelines. Law Enforcement needs to have the flexibility to not just hire the person that scores the highest but also has the important attributes needed to be a good officer. They need the ability to be a good person, to be a good mediator, know the difference between good and evil and know how to find the root of the problem to get help for them.

Meeting adjourned at 4:22 pm.

Law/Radio/Law Review Meeting November 17, 2020 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Dick Lape	518-231-3084	Chair of Law Committee
3	Steve Weinhofer	518-231-6681	Committee member
4	Duane Tilipaugh	518-295-2266	Sheriff's Dept.
5	Suzanne Graulich	518-295-8740	LDI
6	Susan Mallory	518-295-2272	DA
7	C.J. Smith	518-295-8300	BOS
8	Scott Haverly/Jordan	518-295-8465	I.T. Director
9	Steve Wilson	518-295-8303	County Administrator
10	Patsy Nicosia		Times Journal
11	Carl Walthers		SchoPeg
12	Sheriff Ron Stevens	518-295-2266	Sheriff's Dept.
13	Bruce Baker	518-295-2266	Sheriff's Dept.
14	Candace Ellis		Catholic Charities
15	Pat Hults	518-441-2717	Community member
16	Pastor Ray Richards		Committee member
17	Dan Smith	518-231-3160	Community member
18	Wendy Cooke	612-554-7295	Community member
19	Peter Harrison	917-449-4512	Community member
20			
21			
22			
23			
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Schoharie County Law Enforcement Review

November 2, 2020

Attendees: see attached list

Meeting called to order at 5:15 pm.

Next meeting will be November 17, 2020 at 3:00 pm here in the Board of Supervisors Room. Please call ahead to reserve a seat.

Sheriff Stevens – today Sgt. McCoy and Sgt. Reinhart will discuss Lexipol and their role. But first I would like Mr. Harrison to tell his story.

Peter Harrison – please see attached story from the Times Journal regarding Mr. Harrison's story.

Sgt. McCoy, Sgt. Reinhart, and Inv. Baker –

Current Programs in Place or Being Implemented by SCSO:

- LEAD: Diversion program designed to offer low level offender alternate means of assistance. Focus on Addiction/Mental Illness/Poverty/Homelessness.
- County OWG for LEAD voted and approved "Social Contact Referrals" at October meeting; meaning subjects will not need to have immediate Law Enforcement contact to be offered assistance.
- Referrals will also be made for subjects who overdose and are administered NARCAN by patrols.
- Procedural Justice: All patrol deputies, corrections officers, court officers, civilian staff and communications officers will be trained in the principles being implemented agency wide. Patrols will be trained before Christmas; Corrections, Communications and Court staff after 1/1/21 but prior to 4/1/21.
- Evidence Based Strategies: Agency statistics indicate nearly ½ of all arrests are mental illness related. Continued LEAD diversions and in-service training with the OCS and OMH (NYS) for all patrols will be explored and implemented when available.
- De-Escalation training: Procedural Justice training will be an on-going strategy. Part 2, which will take place 6 months after the initial training will include a refresher of Procedural Justice Part 1 and include scenario based training in which officers are placed in situations that strive to de-escalate the situation

without the use of force when practical. These scenarios are all based on actual events from around the country and here in Schoharie. These scenarios will continue to be part of use of force training and firearms training as well.

- Bias training: While this is addressed at the academy, Procedural Justice Part 3 (still in development) will be focused on such training. DCJS is currently completing the curriculum and will have multiple trainings for instructors in the coming months.
- Community Policing:

Explorer program	Yellow Dot
SRO program	Child Safe ID
Toys for Tots	Life Saver

- Ideas to build on:
  - Citizen Police Academy- giving citizens a chance to take part in portions of training police undergo.
  - Development of a Community Engagement Deputy position: Deputy who will be charged with the responsibility to engage community groups and leaders. Attend community functions, hold monthly community "Town Hall" events throughout the County to address citizen concerns and offer insight into agency business. Discuss programs etc. Deputy will be a point of contact for citizens to obtain basic information and request a particular enforcement or presence. This is NOT a public information officer, but a liaison between the Sheriff and the citizens of the County.
  - An agency "Vision Statement" formulated by this committee and citizens that will reflect the goals and desires of those who serve and whom they serve. The statement based on the Principled Policing Principles.
  - A semi-annual statistical report published on multiple platforms for public review and transparency of agency progress.
  - Increased social media presence and press release timeliness.
  - Implement citizen complaint reporting standard and review.

Meeting adjourned at 6:11 pm.

Law/Radio/Law Review Meeting November 2, 2020 (Board Chambers)

	NAME	PHONE NUMBER	AGENCY/DEPT/VISITOR
1	Bill Federice	607-353-2110	Chairman of the Board
2	Dick Lape	518-231-3084	Chair of Law Committee
3	Peggy Hait	607-652-7223	Chair of Radio Committee
4	John Leavitt	518-429-8365	Committee member
5	Harold Vroman	607-397-8187	Committee member
6	Steve Weinhofer	518-231-6681	Committee member
7	Indy Jaycox	518-295-8316	County Clerk
8	C.J. Smith	518-295-8300	BOS
9	Suzanne Graulich	518-295-8740	Legal Defense of Indigents
10	Denise Minton	518-295-2274	Probation Director
11	Sheriff Ron Stevens	518-295-2266	Sheriff's Dept.
12	Bruce Baker	518-295-2266	Sheriff's Dept.
13	Sgt. Jeff McCoy	518-295-2266	Sheriff's Dept.
14	Sgt. Zach Reinhart	518-295-2266	Sheriff's Dept.
15	Mike Hartzel	518-295-2276	OES Director
16	Colleen Flynn	518-295-2276	OES
17	Scott Haverly	518-295-8465	I.T. Director
18	Steve Wilson	518-295-8303	County Administrator
19	Pat Hults	518-441-2717	Community member
20	Pastor Ray Richards		Committee member
21	Dan Smith	518-231-3160	Community member
22	Wendy Cooke	612-554-7295	Community member
23	Peter Harrison	917-449-4512	Community member
24	Patsy Nicosia		Times Journal
25	Carl Walthers		SchoPeg
26	Debra Paden	518-295-8184	Community member
27	Mike Lent		SchoPeg
28			

TIMES JOURNAL

November 4, 2020 The News of Schoharie County

$1.25
The hometown paper of Peter Harrison.

www.timesjournalonline.com

Cobleskill, New York
144th year – No. 45



Peter Harrison talks about being accused of being a stalker—or maybe a private eye—at a Schoharie County Law Enforcement Review Committee meeting Monday.—Photo by Patsy Nicosia

His story: a police suspect

By Patsy Nicosia

Peter Harrison's story is hard to listen to.

And harder to tell.

But Monday, he shared it with Schoharie County's Law Enforcement Review Committee as it continued the review of policies mandated under Executive Order 203—and embraced by the Sheriff's Office.

"I was hesitant to share [this] in the beginning," said Mr. Harrison, who lives a couple miles outside of Argusville in the Town of Root.

"I didn't want to be the guy who told the story all the time," and he wasn't sure it applied to Executive Order 203.

"But as I thought about it, most police interactions—good or bad—they start somewhere else. It starts with dominoes. It starts several steps down the road..."

Mr. Harrison's story started a year or two ago after he attended the county's auction of back tax properties, one of maybe two other people of color.

Afterwards, he stopped at a couple of places for food and coffee—running into some others he'd seen at the auction, ending up at Wal-Mart a few hours later.

Where he came out of the store to find a Cobleskill Police officer waiting for him, asking about his whereabouts.

"Was I in Schoharie? Am I a private investigator? Or was I a stalker?"

Because, the officer said, a woman reported seeing him at those places and feeling threatened by him.

"I'm a Black man, 6-1 or 6-2. I drive a black convertible," he said. "I stand out."

At first, Mr. Harrison said, he thought he'd been "punked"—captured on a hidden TV camera as a joke.

He even started looking around for the camera.

"But it turned out that someone, a female, felt I was stalking her."

From there, the conversation moved to then-Chief Rich Bialkowski's office, Mr. Harrison said, where it grew even more uncomfortable.

"When you don't have the facts, you imagine them," he said: Was there even a female or was someone spooked to see him at the auction, a Black man interested in buying property, and trying to keep him out? Was this going to be on my record?

> "I'm a Black man, 6-1 or 6-2. I drive a black convertible. I stand out."
> —Peter Harrison

Mr. Harrison grew up in a law enforcement family, he said, where you got "the talk": deescalate, keep your hands where everyone can see them, don't make any sudden movements.

"I felt like I'd been assaulted, violated," he said, and he took his story to friend Pastor Ray Richards, a member of the LERC, who he knew lived nearby.

"We shared a little bit, he prayed with me, and that was mostly the end of it."

Except it never is, Mr. Harrison said.

He shared a little of his story at June's Black Lives rally at Doc Reilly Park—as well as what came next, pulling up a June 10 Times-Journal story on obscene, anti-gay, anti-Jewish and white power signs posted on a lawn in Argusville on his phone.

"This person lives on my block, three and a half minutes away," he said. "It only takes one person to be a little on edge...to throw things through my window..."

Choosing his next words carefully—"This is the sensitive part of what I'm saying"—Mr. Harrison said "a part of me says, does he have law enforcement friends, who listen to him, tolerate his views, and bring that into law enforcement situations?" stressing the need to look at implicit bias.

"We have to be sensitive to what we let into our heads and minds because we let it bleed through."

The next LERC meeting will be 3pm Tuesday, November 17, in the Board of Supervisors' room in Schoharie.

Because of COVID, attendance is limited, but the meeting will be live-streamed on Facebook and broadcast on SCHOPEG.

Carmella Smith

From: Bruce Baker
Sent: Wednesday, November 4, 2020 1:16 PM
To: Carmella Smith
Subject: RE: Presentation/notes from Law Review Mtg.

CJ here is the gist of it.

EO 203 Talking Points/Programs

Current Programs in Place or Being Implemented by SCSO:

-LEAD: Diversion program designed to offer low level offender alternate means of assistance. Focus on Addiction/Mental Illness/Poverty/Homelessness.

County OWG for LEAD voted and approved "Social Contact Referrals" at October meeting. Meaning subjects will not need to have immediate LE contact to be offered assistance.

Referrals will also be made for subjects who overdose and are administered NARCAN by patrols.

-Procedural Justice: All patrol deputies, corrections officers, court officers, civilian staff and communications officers will be trained in the principles being implemented agency wide. Patrols will be trained before Christmas. Corrections and communications and Court staff after 1/1/21, and prior to 4/1/21.

Evidence Based Strategies: Agency statistics indicate nearly ½ of all arrests are mental illness related. Continued LEAD diversions, and in-service training with the OCS and OMH (NYS) for all patrols will be explored and implemented when available.

De-Escalation training: Procedural Justice training will be an on-going strategy. Part 2, which will take place 6 months after the initial training will include a refresher of PJ1 and include scenario based training in which officers are placed in situations that strive to de-escalate the situation without the use of force when practical. These scenarios are all based on actual events from around the country and here in Schoharie. These scenarios will continue to be part of use of force training and firearms training as well.

Bias training: While this is addressed at the academy, PJ 3 (still in development) will be focused on such training. DCJS is currently completing the curriculum and will have multiple trainings for instructors in the coming months.

Community Policing:

Explorer program	Yellow Dot
SRO program	Child Safe ID
Toys for Tots	Life Saver

Ideas to build on:

-Citizen Police Academy- giving citizens a chance to take part in portions of training police undergo.

-Development of a Community Engagement Deputy position: Deputy who will be charged with the responsibility to engage community groups and leaders. Attend community functions, hold monthly community "Town Hall" events throughout the County to address citizen concerns and offer insight into agency business. Discuss programs etc. Deputy will be a point of contact for citizens to obtain basic information and request particular enforcement or presence. This is NOT a public information officer, but a liaison between the Sheriff and the citizens of the County.

An agency "Vision Statement" formulated by this committee and citizens that will reflect the goals and desires of those who serve and whom they serve. The statement based on the Principled Policing Principles.

A semi-annual statistical report published on multiple platforms for public review and transparency of agency progress.

Increased social media presence and press release timeliness.
Implement citizen complaint reporting standard and review

From: Carmella Smith <carmella.smith@co.schoharie.ny.us>
Sent: Wednesday, November 4, 2020 1:09 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>; Zachary Reinhart <zachary.reinhart@co.schoharie.ny.us>; Jeffrey McCoy <jeffrey.mccoy@co.schoharie.ny.us>
Cc: Ronald Stevens <ronald.stevens@co.schoharie.ny.us>; Sheryl Largeteau <slargeteau@co.schoharie.ny.us>
Subject: Presentation/notes from Law Review Mtg.

Good morning all:

Can you please provide me with a written form of your presentation from the Law Review meeting on Tuesday for the official minutes.

Thank you,
C.J.

C.J. Smith
Deputy Clerk/Auditor/Purchasing Agent
P.O. Box 429
Schoharie, NY 12157
Tel: 518-295-8347 or 8300

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Schoharie County
Office of Community Services
PO Box 160 Schoharie, New York 12157
Bonnie Post, LCSW-R, CASAC, Director of Community Services
Telephone: (518) 295-8336 Fax: (518) 295-8399

Schoharie County Law Enforcement Committee Meeting
20 October 2020

Office of Community Services Presentation:

- Presentation Attached.
- Questions/Discussion:
  - ✓ Suicide statistics pre-COVID/post-COVID.
  - ✓ CARRT cases went down when schools were closed, reporting wasn't happening. Since the State reopened there's been a 400% increase in reporting.
  - ✓ The LEAD program has been working for the Community. Thank you to the BOS and the State.
  - ✓ Examples of how law enforcement uses the power of persuasion needing/having the ability to communicate with people to comply with a 9.45 or 9.41 were explained.
  - ✓ MCAT, Mobile Crisis Assessment Team, is staffed through the Neighborhood Center. At this time, they cannot issue a 9:45. After hours a 9.45 would need to go through the Emergency Room.

Respectfully submitted,
Deidre Scutt, Dept. Business Manager I
for Bonnie Post, Director of Community Services

Presentation for the Law Enforcement Committee

Law enforcement officers are increasingly responding to calls for people with mental illnesses who are in crisis. Police officers and sheriff's deputies are often called in to intervene with homeless people who are experiencing delusional symptoms, to transport people with severe mental illnesses who need emergency evaluations at a hospital, and to manage domestic disturbances, incidents of violence, and threats of suicide.

NYS Mental Hygiene Law (MHL) governs various aspects of the mental health, chemical dependency, and developmental disability service systems.

Individuals experiencing mental health crises in the community may require intervention to ensure that they remain safe and that their mental health needs are thoroughly assessed. Law enforcement is often involved in making a determination that an involuntary transport to the hospital is necessary for further evaluation (pursuant to Mental Hygiene Law §9.41 and §22.09) or in acting upon the request of Director of Community Services or his or her designee (§9.45) to have someone brought to the hospital for further evaluation.

These statutes are intended to get someone to a hospital for an evaluation for possible admission and do not address any aspect of the inpatient admission process.

MHL 9.41 – Powers of Law Enforcement

- An individual must meet two criteria in order for law enforcement to have the power to bring the person to the hospital against their will:
    1. The person must appear to be mentally ill, and
    2. The person must present in a manner that is likely to result in serious harm to the person or others. This standard includes specific threats to self, others, or other conduct that demonstrates that the individual is unable to care for their basic needs for food, shelter, clothing or healthcare.

Please note that the criteria often get (inaccurately) summarized to be "when someone is either suicidal or homicidal." First, it is necessary that the person "appear to be mentally ill." Law enforcement personnel are trained to observe verbal, behavioral and environmental indicators of mental illness. It is not expected that police make a definitive determination that someone *is* mentally ill; they only need to make a judgment that the person *appears to be mentally ill.* Second, transport under §9.41 is permissible if the person is or is not imminently suicidal or homicidal (or otherwise threatening harm to self or others). Dangerousness not only

includes suicidal and homicidal ideation or acts, but "other conduct that demonstrates the individual is unable to care for their basic needs for food, shelter, clothing or healthcare."

- Transportation: Individuals who are transported under this section must be brought to either a hospital licensed and approved under section 9.39 or a Comprehensive Psychiatric Emergency Program – in our area it is Bassett in Cooperstown, St. Mary's in Amsterdam and Ellis in Schenectady.

MHL 9.45 – Powers of Directors of Community Services (& Designees)

- This section provides a Director of Community Services (DCS) the authority to direct the removal of a person to a 9.39 hospital or a CPEP. The DCS may appoint "Director of Community Services Designees" (DCS Designees) to act on his or her behalf. Similar to MHL§9.41, this section requires evidence of mental illness and an element of dangerousness to the point that hospitalization may be warranted. The DCS or DCS Designee can initiate the process based on the request of any one of a number of authorized reporters who state that the person has a mental illness for which immediate hospitalization is warranted. These include: a licensed physician, a licensed psychologist, registered professional nurse, or certified social worker currently responsible for providing treatment services to the person, a peace or police officer, the spouse of the person, the child of the person, the parent of the person, the adult sibling of the person, the committee or legal guardian of the person or a "health officer

Note that under §9.41 the standard is that the person must "appear" to have a mental illness. Under §9.45 the reporter must state that the person "has a mental illness." While this makes sense in that the DCS or clinicians who are DCS designees are initiating a §9.45 and thus confirming the presence of a mental illness, in practice there is little distinction made between the standards for law enforcement initiated §9.41s and DCS designee initiated §9.45s.

It is important to note that *law enforcement officers are obligated to act* on a properly executed §9.45 application (i.e., one filled out by a DCS or DCS designee). The law states that the DCS or his/her designee has "the power to direct the removal of any person" who meets the previously specified criteria. There are times that law enforcement will judge an individual to not meet the §9.41 criteria when they are dispatched to facilitate a transport pursuant to §9.45; that is irrelevant. A §9.45 is similar to a court-order or an arrest warrant in that police are obligated to bring the person to the 9.39 hospital emergency room.

Please note that both DCSs and individuals who are appointed DCS designees are authorized to act only within the specific county in which they are appointed. Therefore, even if all the criteria are met for a §9.45 (i.e., information received from an authorized reporter indicating the person

has a mental illness and meets the dangerousness criteria), if the person is not within the County, the §9.45 order cannot be issued. In those rare circumstances, two courses of action are suggested. A direct call to the DCS in the other county to advise him/her of the situation is advisable. In addition, some consideration should be given to calling law enforcement in the jurisdiction where the person is thought to be. Even without a §9.45 order issued; law enforcement should be willing to "check the welfare" of individuals reported to be in distress and/or potentially dangerous, and to initiate a §9.41 pick-up when indicated. Often when there is not enough information to secure a 9.45 a request will be made for law enforcement to do a safety check and then follow back up with us.

Please note that face-to-face evaluations by DCS designees are not required to complete the §9.45 process.

o Transportation: The law specifies that law enforcement have the duty to "take into custody and transport" individuals upon the direction of the DCS (or designee) that an individual meet the criteria set forth in §9.45. The law also states that "upon the request of a director of community services or the director's designee" an ambulance service is authorized to transport.

MCAT: Mobile Crisis Assessment Team
MCAT is a contracting partnership of the Neighborhood Center, Inc and the Oneida, Herkimer, Schoharie, Otsego, Delaware and Chenango County of Departments of Mental Health. MCAT's mental health staff provide help during crises to children and adults. MCAT has the ability to respond to crisis in the community where they occur, and work with individual, family and community-based agencies to assist with the situation. The goal of MCAT is to de-escalate a crisis situation, preventing possible harm, keeping the problem outside of the legal system and avoiding hospitalizations when appropriate.

Schoharie County Chemical Dependency Clinic serves as a participant in the Schoharie County Drug Treatment Court. This program serves as a diversion program to allow individuals convicted of drug-related offenses to remain in the community rather than serving a period of incarceration. The Clinic supports clients in meeting the requirements of the Drug Treatment Court and works in tandem with probation and the court to assist clients in making changes in their lives to avoid further legal or interpersonal problems related to their use of substances. The Mental Health Clinic also assists the Mental Health Treatment Court, which supports individuals with significant mental health diagnoses who have co-occurring substance related diagnoses.

The Mental Health Clinic provides clinical and transitional services to inmates at the Schoharie County Correctional facility. A mental health clinician is on site Tuesdays and Fridays for two hours each day, and a clinician is also sent to evaluate crisis situations when called.

Most of the time positive outcomes occur when police interact with individuals with a mental illness or related disorders. Unfortunately, stigma around people who suffer from mental health and addiction is prevalent in our society. The most common disabilities in America are anxiety and depressive disorders. One in five adults in the US are living with a DSM-5 diagnosis. Estimates suggest that only half of those with a mental illness receive treatment. The rate of depression has tripled over the past few years. One out of ten Americans are on an anti-depressant medication. Overdose is the fourth leading cause of death in the United States. Even with the availability of Medication Assisted Treatment, such as suboxone, individuals can be reluctant to begin this treatment due to the stigma attached to this medication. Suicide is the tenth leading cause of death. Firearms are the leading method of suicide in the United States because it is highly lethal, easily accessible, culturally acceptable, fast, and irreversible. Ten percent of people who attempt suicide and survive will go on to die by suicide. Schoharie County continues to struggle with losing people to suicide and overdoses.

There is a critical need for more law enforcement officers to have mental health training to meet the needs of this vulnerable population and ensure that they get the services they need. Mental Health training gives the Officers more tools and skills to do their job safely and effectively.

Donna Becker: When there is a concern for the safety of DSS staff due to prior contact with an individual or due to the allegations listed in a CPS or APS referral, we call law enforcement (usually the Schoharie County Sheriff's Office) to accompany our staff. In our experience, the multiple law enforcement officers who respond to these many situations have been professional and focused on their duty to ensure the safety of DSS staff.

Schoharie County Sheriff's Office dispatch number (518-295-8114) is actually DSS's "on-call" or "after-hours" contact number as well. Every month we provide to the Sheriff's office a calendar of DSS staff who are on-call each night for the following month so dispatch can reach DSS staff after hours, on weekends, and during holidays. This greatly assists with collaboration between DSS and the Sheriff's Department in assisting Schoharie County residents with social service needs not only to meet emergency needs after-hours, but to build a relationship with sheriff's deputies to know the many ways DSS can and does assist families.

We recently had a probation officer contact one of our staff for a mother who was completely out of diapers, wipes, toilet paper, and other items for herself and her four children. After a phone call from the officer to our staff, we were able to gather together what she needed from our office's small supply of emergency needs and meet up with the probation officer so the family would have what they needed. This is just one example of how we work with other departments for the benefit of our residents.

Our Legal Staff works very closely with Drug Court, which enables us to collaborate not only with law enforcement but also with the court system.

I firmly believe that our Schoharie County law enforcement agencies are second-to-none in dealing with difficult situations. With this being said, I firmly believe that every person and every agency should strive for constant improvement. Based upon what I know about the headlines of police brutality around the country I had a couple of questions about training and working on community perception including:

Training: When training on use of force, is the law enforcement agency focused on ensuring the response fits the allegation? For example, if an alleged perpetrator runs, or attempts to run, does the officers' training require them to pursue this individual even if the alleged crime is minimal and could be handled with an appearance ticket mailed to the individual or with a visit to the individual's residence later or on another day? Or does the training require a detainment or pursuit with all the inherent danger involved for all concerned? I can compare this to a DSS case – if we are not granted permission to enter a home and/or interview a child, we are required to make a decision whether a child or children are in imminent danger and call 9-1-1, or can we take a step back, discuss the issue with a supervisor, and request a court order for the caregiver to produce the child for an interview or medical exam. Does law enforcement have a similar protocol?

When training on an alleged perpetrator's response to law enforcement, is the law enforcement agency training on the basic "fight, flight, or freeze" survival response? Any alleged perpetrator's only acceptable response is "freeze" when law enforcement arrives, but often this basic instinct is not completely under the individual's control when under extreme stress. Automatic "flight" is an instinct, not necessarily proof of guilt. What are law enforcement recruits taught relative to this basic survival instinct and their response to the different possible instinctual responses exhibited by an individual?

Community Perception: DSS has true empathy with regard to community perception of law enforcement officers. Either we don't do enough, or we are encroaching on the freedoms of our citizens. This is an ongoing work in progress for DSS but is recent and novel to law enforcement agencies who have historically been revered and appreciated by most citizens. By going into a situation with a cautious expectation that the allegations could very well be false and starting a conversation with an alleged perpetrator with this ideal may assist in creating an environment of empathy and cooperation by everyone involved. By thinking more in terms of "Peace Officers" rather than "Police Officers", a completely different persona may be displayed to the individual being questioned and then quickly de-escalate a tense or potentially dangerous situation. Again, I may be stating what our law enforcement officers already do.

Are peace officers patrolling the streets and getting to know the folks in their neighborhoods in good times? If officers aren't afforded the opportunity to get to know their citizens, then they are available only to respond to crisis situations. Those officers then need to deal with, in one isolated incident, a person with whom they know nothing about or, if they've had law enforcement dealings with them before, there may be a negative light cast upon that citizen in a new situation.

Schoharie County is fortunate in that we are a small enough community to get to know many of our neighbors and maybe that's why we haven't had the negative outcomes other cities and towns have had, or maybe we're just lucky and need to learn from the very hard lessons that other towns, cities, and counties have had to learn.

That's all I have unless anyone has any questions.

Q: Do you have any outreach programs? Like parenting things or support groups?

A: We rely on a lot of area agencies like Catholic Charities, SCCAP, places like that. We have contracts and agreements with them to work out a lot of those outreach programs. We refer a lot of our clients to them. But also, a lot of clients go directly to them because they don't want to deal with DSS, and we're fine with that, as long as they get the help that they need.

Q: One of the suggestions that we're hearing around the country is looking at social workers for non-violent, mental illness issues, etc. Would there be a possible way for our County to address some of these things?

A: That's a very debatable suggestion. The issue is would we be riding with the officers because what we do as far as social work takes a whole lot longer than what law officers are there for. I know that some places have different responses where social workers have their own vehicles and go out there with law enforcement. There is a lot of training and a lot of information gathering that would need to be done to make sure everyone stays safe. That's one of the many things people are looking at. There is a lot of debate and there are a lot of social workers who are concerned about that because a lot of times they're in absolute crisis. Someone coming in like me with plain clothes might deescalate the situation or I may be putting myself in danger depending on the situation. It's something we would really need to look at it.

Q: Is your department specifically looking at that?

No, because we're not social workers. We are caseworkers. We are not licensed social workers. Licensed social workers have Master's degrees and deal with services more in line with Mental Health. We are caseworkers and trained a little bit differently. We are trained to protect families, children, adults; we deal with the Food Stamps, Child Support, things like that. We are not actual social workers at DSS. We are social work Caseworkers.

Q: Are they considering hiring any social workers?

A: Not through DSS. Right now, we haven't had any discussions about that. That would require a whole different set of eyes to take a look at that and see if that were feasible.

Q: So, a collaboration, that would be a caseworker from DSS is going into a location and they feel like they might need back up?

A: Yes

Q: So, it's not like the police say hey, are going into a location and we think maybe we could use your help.

A: No, not at this time. If there is an issue with a child in need, they would call us and make a referral and then we would work it. But we are not first responders. We basically have 24-72 hours to respond to a call, where law enforcement needs to be there right away because there's something going on. We can't enter buildings; we can't do all those things without the person's permission. There's a big misconception about what social services can and can't do. But we are definitely not first responders. We don't have the training; we come in afterwards to take a look at the entire situation and do an investigation from there to determine if a child has been abused or neglected and then go from there with services.

Q: So you wouldn't be the ones to actual take a child from the home or you would?

A: We would but it's not necessarily at that first incident unless it's an emergent situation and we get out there. A lot of times law enforcement are called to remove children because it's a life or death situation and they need to get the child out of there, and they safeguard them until we can get there. Every once in a while, we get there when law enforcement is there at the same time, but a lot of time that's not what our requirement is. We are required to respond within 24-72 hours.

Law Enforcement Committee
10/06/2020

Present: D. Lape (Chair), J. Leavitt, S. Weinhofer. P. Hait, H. Vroman
Also Present: W. Federice, M. Hartzel, I. Jaycox, R. Stevens, S. Wilson, S. Haverly, S. Graulich, S. Mallery, D. Minton, D. Tillapaugh, B. Baker, C. Ellis, R. Richards, P. Hults, W. Cook, P. Harrison, R. Kerley.

Called to Order: 5:00 pm

LE REVIEW SUB-COMMITTEE

CHAIRMAN OF THE BOARD, Bill Federice

Read Opening Marks (attached) and thanked everyone for their time.

OFFICE FOR THE LEGAL DEFENSE OF INDIGENTS:
Suzanne Graulich, Esq., Administrator

Legal Defense of Indigents is responsible for being the mandated provider for indigent defense. We have a 25 Attorney panel that have a specialty in Family and/or Criminal Law. Those Attorney's are assigned to represent clients who are unable to afford an Attorney. Example: If someone is charged with a crime or is to appear in family court and cannot afford an attorney, they can apply for assigned council.

We also assist the county in meeting the mandates of indigent defense reform. One of the reform topics was meeting needs at Arraignments. There are 16 local courts as well as county courts, so it was difficult.

Two types:
1. Appearance Ticket Arraignment: Subject given a ticket to appear at a later date.
2. Custodial Arraignment: Subject is in police custody and appears in court immediately.

Started Pilot Program in town of Cobleskill last July. It went well and then went into effect in all courts January 2020. The DA Office, Indigent Defense and the Courts work together to ensure this works.

Q: How does one get either ticket/custodial?
A: Subject receives a ticket from police, goes home and comes back to a court at a later date. For more serious crimes, subject remains in police custody and is immediately arraigned.

Q: Was this an issue prior to COVID? Why?
A: Yes, with the number of courts it was difficult to coordinate and there was no plan. Now there is.

DISTRICT ATTORNEY: Susan Mallery

The District Attorney's Office is tasked with setting policy, staffing, budgets, administrative tasks, and Prosecution of Cases.

One (1) F/T DA (Susan), Two (2) P/T Assistant DA. We prosecute cases in 21 Total Courts (16 Towns, 1 Village, and 4 County Courts). In larger areas, there are attorney's that represent specialties, but in rural areas, our attorneys must know all types of law.

So what happens in our county, when we have a major felony, we receive a phone call from one of the 50-60 local officers. They can ask legal advice, and/or request a DA to the scene to assist with the investigation, draft search warrants, etc.

We attend as many arraignments as possible but are currently unable to meet all. If it is a felony case, we have 120-144 hours to conduct a preliminary hearing to see if there is enough evidence to hold the subject for Grand Jury. Once Judge has determined we do have enough evidence, we have 6 months to present to Grand Jury.

During this time, we have 20 days (in custody) or 35 days (not in custody) to interview witnesses, law enforcement, etc. and provide documents to council. We have always had an open discovery process, but with the new legislation that went into effect January 1st of this year, everyone is required to provide all the documents up front, which includes preparing for trial, providing counsel with an exhibit list, witness list, and all documents that would be/could be used against the defendant. We then discuss possible plea bargains, hearings and go to a jury trial if necessary.

We do not look at race as any criteria. We look at if there is an addiction issue, what the victim wants, criminal history, what are the charges, how strong is our evidence, etc.

We carry 300-400 misdemeanors, 75-150 felonies, plus appeals, plus post judgements, plus probation violations. In the past 2 years we have prosecuted over 2,000 cases.

Q: In conversations around the world, I've heard discussion on parity of prosecution versus defense. How to you think this would integrate in a rural area?
A: Not currently able to do this. My budget is much lower than the defense attorneys budgets.

Q: Do you receive Bias Training?
A: Yes. We are trained each year on Bias Training as well as 24 CEU's.

PROBATION:
Director: Denise Minton

Read overview (attached).

Q: As a Peace Officer, are you required to undergo the same training and rules as the Sheriff's Office?
A: Yes, as far as using force. However, the entire manual does not apply to Peace Officers.

Q: How many do you currently have on PINS? JD?
A: Due to COVID, schools are not requesting our services at this time, so we have ~20 individuals.

LE Committee Chairman Dick Lape:
Thank you all. We will conclude this sub-committee meeting. Our next sub-committee meeting will be October 20th at the Public Safety Facility at 5pm. We will have DSS Commissioner Donna Becker, and Mental Health Director Bonnie Post as key speakers.

BOS Chairman Bill Federice:
We are making a few improvements to be sure that we have good awareness and participation to those interested in the sub-committee. ITS will put together a better web page for members of the committee as well as the public. If you have any ideas on how we can improve, please let us know.

REGULAR LAW COMMITTEE

PROBATION:
Director: Denise Minton

Requesting permission to declare a Kyocera copy machine unusable.

***MOTION** by Steve Weinhofer to declare Tag #13692 Kyocera copy machine unusable; 2nd by Harold Vroman. All in favor, None opposed. **CARRIED**.

COUNTY CLERK: Indy Jaycox

The SUNY, NYS Education Department and the NYS Archives have issued a new Records Retention & Disposition Schedule for all levels of local government, which became effective as of August 1, 2020. This must be adopted by governing boards with a resolution. Information and sample resolution attached.

***MOTION** by Harold Vroman to send sample resolution to Mike West to create the resolution for Schoharie County adopting new Records Retention and Disposition Schedule, to approve at the next board meeting; 2nd by Steve Weinhofer. All in favor, None Opposed; **CARRIED**.

Chief Judge of NYS has mandated that Schoharie County electronically file court documents (Civil and Criminal) as of October 24th, 2020. We are having conference call tomorrow because our program is very limited in what we are able to do as an in-house program. We may have to do this manually for now but will need to look toward doing it in the future.

Harold Vroman: Do towns have to adopt this resolution as well?
Indy: I believe the county resolution will cover all.

SHERIFF's OFFICE:
Sheriff Ron Stevens

Last month's board meeting there was a hard-hiring freeze. Want to remind you that the Sheriff's Office is the only department required to cover positions 24/7/365.

We are currently experiencing the following vacancies (11):
Dispatch: 1 F/T & 2 P/T
Corrections/Court Security: 5 F/T
Road Patrol: 2 Deputy Sheriff positions
Civil Division: 1 Civil Clerk (Pistol)

I am currently requesting to backfill Court Security Officer and Corrections Sargant, which were approved prior to the hiring freeze.

***MOTION** made by Dick Lape to approve backfilling both positions and send to Personnel/Finance; 2nd by John Leavitt; All in favor, Harold Vroman Opposed. **CARRIED.**

Everything at the new PSF is going well.

Meeting adjourned at 5:45 pm.
Respectfully submitted: Colleen Flynn, 10/13/2020

Law Enforcement Committee
9/1/2020

Present: D. Lape (Chair), J. Leavitt, S. Weinhofer. P. Hait, H. Vroman
Also Present: M. Hartzel, I. Jaycox, R. Stevens, S. Wilson, S. Haverly, E. Hartzel, S. Graulich, W. Federice, S. Mallery, D. Minton, B. Baker, Theresa Heary, W. Cook, P. Nicosa

Called to Order: 5:01 pm

DISTRICT ATTORNEY:
District Attorney: Susan Mallery

Requesting to backfill the Assistant District Attorney position. This has already been approved in this committee but was denied at Finance. Before COVID, our part time person transferred to Rensselaer County where she was offered full time pay. Since then, I've been working her shift plus my own shift. Kevin Mallery did the appeals for the last two months. We are just shy of 600 cases and on average it takes 10 hours to do a case. We aren't making deadlines because we just don't have enough man hours. We can't keep up with it so we need to backfill this position.

MOTION by Leavitt to approve and send to Personnel to backfill the Assistant DA position. 2nd by Weinhofer. All in Favor, none Opposed; **CARRIED.**

PROBATION:
Director: Denise Minton

Requesting to amend the third quarter spending plan. Line A.3140.4214, the drug testing line. We already spent all the money in this line, and we have a $1,080 bill that's coming in.

Lape: Is this a budget transfer?

Wilson: It's not a budget transfer. It's the quarter three spending plan and she didn't plan for this money.

MOTION by Leavitt to approve and send to Personnel to amend the third quarter spending plan. 2nd by Hait. All in Favor, none Opposed; **CARRIED.**

The Probation Department is seeking authorization for the Chairman to sign a revised contract with West Publishing Corporation. This previously expired on 2003, but I was able to renegotiate the contract to reduce the monthly cost beginning October 2020, which will save money for the remainder of 2020 and will reduce anticipated costs in 2021. We use this search tool for locating probationers who have been absconded and have active warrants, to locate defendants with outstanding financial obligations to the department and to locate victims with restitution owed.

Wilson: The full board must authorize it, but it doesn't need to go to Personnel and Finance.

MOTION by Hait to have the Chairman of the Board sign the revised contract with West Publishing Corporation. 2nd by Weinhofer. All in Favor, none Opposed; **Carried.**

The STOP DWI Program is seeking authorization to apply again for the 2020-2021 Crackdown Funding (Grant) through NYS STOP DWI Foundation Board for $4,350. This funding will be used to reimburse annual Crackdown events throughout the year. The reimbursement is 100% for their hours and overtime costs while working during the crackdown event. The application is online and cannot be signed by the Chairman. No county funds are involved.

MOTION by Hait to send to Personnel to apply for the 2020-2021 Crackdown Funding (Grant) and spend per grant budget. 2nd by Weinhofer. All in Favor, none Opposed; **CARRIED.**

The Probation Department is requesting to declare a Dell OptiPlex 7010 desktop computer unusable.

MOTION by Leavitt to send to Personnel to declare a Dell OptiPlex 7010 desktop computer unusable. 2nd by Weinhifer. All in Favor, none Opposed; **CARRIED.**

OFFICE FOR THE LEGAL DEFENSE OF INDIGENTS:
Administrator: Suzanne Graulich

Update: We are in week 8 of making all the criminal assignments and doing the eligibility screening for the criminal courts. Our biggest challenge is trying to keep track.

SHERIFF'S OFFICE (see attached report):
Sheriff: Ronald Stevens

Boarding costs are dictating our ability to get into the facility. Looks like we will have to wait another week or two. The engineers performed a flow test today and found a 4x4 piece of concrete that came out of one of the hydrants. They verbally told me that the test went very well. The next move will be to provide Department of State the test results to approve. We anticipate this will happen again soon. With that, I'm looking to increase my revenues.

Requesting the following Budget Amendments to cover boarding cost:

- Increase Jail Boarding Line A. 3170.4224 by $35,000
- Increase Revenue Line A.4784 by $26,250
- Increase Revenue Line A.3784 by $8,750

With increasing inmate numbers and the delay of housing our own inmates, additional funds may need to be transferred.

Requesting the following Budget Transfer to cover boarding cost:

- $15,000 from Jail Medical Line A.3150.4269 to the Jail Boarding Line A.3170.4224

MOTION by Hait to approve and send to Finance the following Budget Amendments and Budget Transfer:

- Increase the Jail Boarding Line A.3170.4224 by $35,000
- Increase Revenue Line A.4784 by $26,250
- Increase Revenue Line by A.3784 by $8,750
- Budget Transfer: $15,000 from Jail Medical Line A.3150.4269 to Jail Boarding Line A.3170.4224

2nd by Weinhofer. All in Favor, none Opposed; **CARRIED.**

Discussion ensued about Executive Order 203:

Federice: There is a lot of work involved in this to do it correctly and we are going to do it correctly. We will have an organizational meeting first and will have documents laid out and for us to look at. The public will be invited to all the meetings, which will be separate from Law Committee, so we have the publics input and all the meetings will be streamed. This is going to take a lot of work and April 1st is our deadline.

Stevens: Long before the Governor came out with Executive Order 203, (3 years ago) we started The LEAD Program which is a Harm Reduction Program. The LEAD Program is a module for what the Governor is talking about in Executive Order 203.We partner with Catholic Charities and are the only Sheriffs Organization in NYS that participates in this program. We applied for and were awarded a grant through our insurance provider, which we used to hire Lexipol last year, to write new policies and procedures for the Sheriff's Office, which will meet requirements for the Executive Order 203. We will have Town meetings again to hear public concerns.

Baker: The LEAD Program is a prearrest program and looks at low level nonviolent crimes. That's what the Bail Reform is all about. We are looking into setting up an informational meeting to show the public how the program works. We have annual training with refresher courses, hands on training, how to handle people, and deescalating things.

Cook: I have a concern that Lexipol is designed to protect the department, town, and the county, not necessary the public's interest. I'm hopeful that the county will look very closely at Lexipol's policies and make sure there is a balance between the department needs and the public's needs for that department.

Nicosia: Looking at this group, we are a very nondiverse group. With that, moving forward please make the effort to go out and talk to a variety of people. Let's make this very inclusive.

COUNTY CLERK AND DMV:
Schoharie County Clerk: Indica Jaycox

The DMV revenue is close to last year and the mortgage tax revenue has increased.

Meeting adjourned at 6:05 pm.
Respectfully submitted: Emily Hartzel & Colleen Flynn, 9/3/2020

Schoharie County
Law Enforcement Review Committee
Correspondence

February 27, 2021 LEAD Program - Hults

February 26, 2021 Recommendations from Rural Awakening - Hults

February 26, 2021 Police Accountability Letter to Editor - Stinson

February 25, 2021 Governors Executive Order - Alberto

February 23, 2021 Report of Major Topics Discussed and Recommendations by LERC – Federice

February 19, 2021 Citizen Advisory Task Force Board – Hults

February 4, 2021 Invitation to round tables on police....Hults

February 2, 2021 Subjects not yet discussed by County – Baker

February 1, 2021 Additions to your list – Hults

January 26, 2021 Subjects not yet discussed by County – Baker

January 26, 2021 Policy 304 Conducted Energy Device – Baker

January 26, 2021 Village of Cobleskill Draft Plan – Stanton-Terk

January 26, 2021 Village of Cobleskill draft plan submitted – Stanton-Terk

January 19, 2021 Subjects not yet discussed by County – Hults

January 18, 2021 Body Cam System Policy – Sheriffs Office

January 18, 2021 Policy 401 Bias-Based Policing

January 18, 2021 Policy 424 Portable Audio Video Recorders

January 18, 2021 Rural Awakening Comments on Schoharie.... – Hults

January 11, 2021 Policing Review Presentation Inovation to edit – Heary

January 8,2021 – EO 203 plan – Stanton-Terk

January 8,2021 – Village of Cobleskill draft plan – Stanton-Terk

January 7,2021 – Rural Awakening should show recommendations – Heary

January 7,2021 -Shall Should – Heary

January 3, 2021 Fwd Letter to Editor – Stinson

December 24, 2020 Police Transparency Issue – Stinson

December 20, 2020 Fwd Letter to Editor – Stinson

December 20, 2020 RE January 21, 2021 Law sub-committee – Lape

December 15, 2020 Jan. 5th v 12th – Hults

December 15, 2020 Thoughts on Deadly Forece Letter to Editor – Rural Awakenings

December 13, 2020 Police Equipment Issue – Stinson

December 12, 2020 Police Accountability – Stinson

December 9, 2020 – Recommended changes to the new Use of Force Policies

December 9, 2020 – Rural Awakenings response to new policing policies – Hults

December 9, 2020 – Suggested Conducted Energy Device – Hults

December 9, 2020 – Suggested Control Devices – Hults

December 9, 2020 – Suggested Handcuffing and Restraints – Hults

December 9, 2020 – Suggested Mission Statement – Hults

December 9, 2020 – Suggested Use of Force – Hults

December 8, 2020 – Input re body cams – Hults

December 6, 2020 – Law Enforcement Review comment – Stinson

December 3, 2020 New Policies for County Sheriffs Department – Hults

December 2, 2020 – 7th Sub-Committee Informational Meeting – Lape

November 30, 2020 – Attendance at the Tuesday Policing Review Committee – Hults

November 30, 2020 – 2020 Model UOF Policy – Baker

November 30, 2020 – DCJS email – Baker

November 30, 2020 – NYCRR Article 35 – Baker

November 30, 2020 – NYS Article – Baker

November 30, 2020 – Current Bodycam Policy – Baker

November 30, 2020 – Current UOF Policy – Baker

November 30, 2020 – NYS Ex 840 – Baker

November 30, 2020 – PL 121.13 – Baker

November 30, 2020 – Pres Choke Ban – Baker

November 30, 2020 – UOF Reporting Memo – Baker

November 28, 2020 – Use of Force – September 2020 MPTC final

November 28, 2020 – MPTC Model Policy (92020) – Baker

November 27, 2020 – Use of Force Policy – Stevens

November 27, 2020 – Use of Force Question – Baker

November 27, 2020 – Recommendations from Rural Awakenings – Hults

November 26, 2020 – Police Transparency and Accountability – Stinson

November 23, 2020 – Law Enforcement Review-Cook

November 12, 2020 New York Associations of Counties Article

October 20,2020 LERC Comment – Stinson

October 19, 2020 Executive Order community review – Cook

October 16, 2020 EO 203 Correspondence – Kerley

October 9 2020 Lexipol Story – Stinson

October 3 2020 Mask Wearing at committee meetings – Hults

October 2, 2020 Cobleskill Documents – Stanton-Terk

September 29, 2020 Schoharie County Policing Policy Reforms – Cook

September 27, 2020 For the LE Review Comm – Stinson

September 26, 2020 LE Review – Stinson

September 22, 2020 LE Review Thoughts – Stinson

September 14, 2020 For the Law Enforcement Reform Comm – Stinson

September 10, 2020 Sept. 15 meeting – Lape

Gmail **Bill Federice <federicebill@gmail.com>**

Report of Major Topics Discussed and Recommendations by LERC

7 messages

Bill Federice <federicebill@gmail.com> Tue, Feb 23, 2021 at 3:57 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Becky Stanton <mayor@cobleskill.org>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>

Good afternoon, attached is a ten point summary of the items that the Law Enforcement Review Committee discussed and are most interested in. It contains recommendations which I have asked the Sheriff to comment on. Likewise, I am asking the members of the Schoharie County Law Enforcement Review Committee and those persons who have attended our meetings or have an interest in the topics to provide their comments. Please provide anything you may wish to add by noon on March 2. They will be included in the report.

Once comments are compiled they will be added to the report which will then be subject to a public hearing conducted by the Law Enforcement Committee to hear comments and questions from the public. This will be followed by public consideration at a meeting of the Board of Supervisors. Dates and times will be scheduled once the report is finalized to include comments from interested parties.

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

LERC Recommendations.docx
24K

mayor@cobleskill.org <mayor@cobleskill.org> Tue, Feb 23, 2021 at 4:09 PM
To: Bill Federice <federicebill@gmail.com>

Bill,

I watched the most recent LERC meeting on SCHOPEG. It was painful to say the least. How many times are you guys going to revisit and repeat the same things. As a taxpayer, I'm annoyed that the County DA had to sit through that when she's got a pile of cases on her desk. (one of which is the Village's) Rural Awakenings is not getting exactly what they want and they seem to be given a platform to continually beat a dead horse. Bottom line is this...everyone has been heard. Explanations have been made on both sides. You are 100% compliant in accordance with all NYS and Federal laws. Governor Cuomo stated in his August 2020 Resources & Guide Book "ALL PARTICIPANTS SHOULD RECOGNIZE THAT FUNDS ARE LIMITED, THAT PERSONNEL MUST BE TRAINED AND MANAGED FOR THE TASKS THEY ARE GIVEN, AND THAT ORGANIZATIONAL CHANGE IS RARELY SWIFT". It has been repeated over and over that policies and procedures are living, changing documents through time. Just because Rural Awakenings isn't getting everything they want in one felt swoop, doesn't mean that things can't change over time. For God's sake, allow our officers time to adjust to the changes that ARE going to be implemented as a result of this collaboration. That's my two cents. Thanks for allowing me to give it!

Rebecca Stanton-Terk, Mayor
Village of Cobleskill
378 Mineral Springs Rd
Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978
[Quoted text hidden]

Carmella Smith <carmella.smith@co.schoharie.ny.us> Tue, Feb 23, 2021 at 4:24 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Sheryl Largeteau <slargeteau@co.schoharie.ny.us>

Hi Bill:

I just want to clarify a few things. Are you looking for have a Public Hearing just for the Law Enforcement Committee or also for the full Board of Supervisors?

Reminder that Public Hearings need to be advertised at least 1 week, ideally 2 weeks, prior to the Public Hearing; therefore the dates should be scheduled sooner rather than later.

Let me know if I can do anything to help produce the report.

Thanks,

C.J.

[Quoted text hidden]

Ray Richards <pastorray@cagcobleskill.org> Tue, Feb 23, 2021 at 4:34 PM
To: Bill Federice <federicebill@gmail.com>

thanks, Bill, for your work on this. I will look it over and get back to you with any recommendations/comments.
[Quoted text hidden]

---

mayor@cobleskill.org <mayor@cobleskill.org> Tue, Feb 23, 2021 at 5:16 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman

<haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>

All,

I have an objection to the "CCC" meeting requirement being quarterly. I would recommend an annual meeting with the ability to call a meeting sooner, in the event of an incident the committee deems necessary to analyze sooner. Our resources are already stretched. District Attorney Mallery for example, has piles of work to do with a short staff. We are all trying to stay on top of all the Governor's mandates. Please do not place what I feel is an unnecessary burden on them at this time. Even a compromise of twice a year would be much more realistic.

Rebecca Stanton-Terk, Mayor
Village of Cobleskill
378 Mineral Springs Rd
Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978

On 2021-02-23 20:57, Bill Federice wrote:

[Quoted text hidden]

Pat Hults <hultsp@outlook.com> Tue, Feb 23, 2021 at 5:25 PM
To: "mayor@cobleskill.org" <mayor@cobleskill.org>
Cc: Bill Federice <federicebill@gmail.com>, Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>, Theresa Heary <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, Reggie Harris <regerino42@gmail.com>

Please note the recommended members of the CCC does not include the District Attorney. Although she would certainly be consulted should legal action recommendations arise, there is no requirement she attend all meetings as this is written. And since I believe the county has declined to merge this committee with any recommended by the Village, the frequency of the meetings does not impact village officials.

Patricia Hults

On Feb 23, 2021, at 5:16 PM, mayor@cobleskill.org wrote:

[Quoted text hidden]

Becky Stanton-Terk <mayor@cobleskill.org> Tue, Feb 23, 2021 at 6:43 PM
To: Pat Hults <hultsp@outlook.com>
Cc: Bill Federice <federicebill@gmail.com>, Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy

Cook <wcook001@luthersem.edu>, Theresa Heary <theresa.heary@gmail.com>, shelaria@gmail.com, Reggie Harris <regerino42@gmail.com>

I'm aware the Village and Co. will not be sharing a committee. I'm stating my opinion as a tax payer and elected official. Also, after all of the meetings you have attended, I would hope you heard how much of what the ccc may be reviewing, goes through her office. There is a lengthy process from start to finish. I used Ms. Mallery as one example. I understand she wouldn't be one of the seven sitting at the table. Is the committee only tasked with discussing any possible complaints? If that's so, as Sheriff Stevens indicated, history shows you may not get one. I'm not trying to be argumentative, I'm just trying to understand what there might be to talk about every 3 months. Respectfully, I would hope my opinion would hold as much value as yours, even if we disagree.
Becky Terk
[Quoted text hidden]

Schoharie County Law Enforcement Review Committee

Report of Major Topics Discussed and Recommendations Regarding Adoptions of Changes

1. **Portable Audio/Video Recorders (Body Cams)** – Schoharie County Sheriff's Office Policy 424 addressing body cams is in compliance with New York State Law and regulations. Further changes could impact the response time for urgent situations and may endanger law enforcement.
2. **Citizens Collaborative Committee (or name TBD)** – As discussed and agreed by the Sheriff's Office at the February 9, 2021 Law Enforcement Review Meeting and further discussed at the February 16, 2021 meeting, a Citizens Collaborative Committee (CCC) will be established for the purpose to meet quarterly to discuss law enforcement issues as it relates to the Schoharie County Sheriff's Office. As appropriate, the CCC will report to the Schoharie County Board of Supervisors Law Enforcement and Judicial Committee any findings or recommendations. If accepted by the Law Enforcement and Judicial Committee, the recommendations will be forwarded to the full Board of Supervisors for comments and/or adoption. The CCC will consist of five Schoharie County citizen members appointed by the Board of Supervisors to two-year terms, the Sheriff (or and) his/her designee, and one member of the Board of Supervisors outside of the Law Enforcement Judicial Committee.
3. **Law Enforcement Data Information** – Once available, the Schoharie County Sheriff's Department and Citizens Collaborative Committee will review arrest data collected by the Court systems. The data will be accessed on the public websites of the Division of Criminal Justice Services and the Office of Court Administration mandated by the State under the New York State Police Statistics and Transparency Act enacted June 2020. It is recognized the usefulness of the data will be subject to the quality and timeliness of what the State provides.
4. **De-escalation Training and Use of Force -** The current Schoharie County Sheriff's Office Policy 300 addressing use of force is in compliance with Federal, New York State Law and regulations. Maybe eliminate -Further changes could impact the safety of the law enforcement officer. Include-Annual De-escalation and Use of Force training will be conducted.
5. **Use of Energy Conducted Weapon (Taser)** - The Schoharie County Sheriff's Office Policy 304 as amended and presented to the Law Enforcement Review Committee February 16, 2021 contains an update stating any use of must be preceded by a verbal warning, unless it would endanger the safety of deputies or other non-law enforcement personnel. No further action needed in this area.
6. Maybe eliminate this as it is contained in #4 **Use of Force -** The current Schoharie County Sheriff's Office Policy 300 addressing use of force is in compliance with New York State Law and regulations. Further changes could impact the safety of the law enforcement officer.
7. **Access to High Quality Mental Health Services for Officers –** The practice of providing high quality mental health to all county law enforcement is currently in place and all personnel are strongly encouraged to seek assistance, as necessary. Schoharie County Sheriff's Office is developing a Certified Peer Support Team to further assist those who need assistance.
8. **Clearer imperatives that require officers to both intervene when they see use of excessive force and the requirement to report use of excessive force -** Intervention and the reporting of excessive use of force is the practice of the Schoharie County Sheriff's Department.
9. **Banning of chokeholds** – Chokeholds are outlawed in New York State. The Sheriff's Department Deputies, who have been trained in their use, are authorized to use a carotid hold as a less than lethal method of subduing a potentially dangerous or violent individual when the use of deadly physical force is warranted.
10. **Replacement of the concept of imminent danger with the use of immediate danger -** Waiting for an imminent danger situation to escalate to one of immediate danger can be the difference between a non-lethal event and a lethal one due to the potentially extremely short amount of time it can progress to an immediate danger.

DRAFT

Schoharie County Sheriff's Office will continue to exercise the use of Deadly Physical Force in instances where an imminent threat exists in compliance with State and Federal Law.

DRAFT

Gmail

Bill Federice <federicebill@gmail.com>

Governor's Executive Order 203

1 message

Alberto, Cristina <calbe@albanylaw.edu> Thu, Feb 25, 2021 at 1:07 PM
Cc: "Alberto, Cristina" <calbe@albanylaw.edu>

Good afternoon,

Thank you for your interest in the Governor's Executive Order 203. I'd like to share a few links to recent programs the Government Law Center has hosted around this topic:

First, on Friday, February 19, we kicked off our first 2021 Anderson seminar on Implementing Police Reform Under the Governor's Executive Order 203. The panelists discussed what is expected under the terms of the order, examine some of the difficult issues that municipalities face as they undertake this effort, and report on how municipalities are progressing as they approach the order's April 1 deadline.

Second, the Executive Order 203 Roundtable 2 from February 18 can be viewed here: EO 203 Roundtable 2. The discussion focused on rural communities, whose challenges are in many ways unique.

Third, the first roundtable discussion from February 9, focused on police-reform processes that are going forward under the Executive Order. Video recording can be viewed here: EO 203 Roundtable 1.

Lastly, you may read more about policing on our website and resources page.

Please feel free to share with any of your contacts. If you have any questions, do not hesitate to reach out.

Thank you again and have a wonderful day. Be well and stay safe.

Best,

Cristina

Cristina Alberto, MS.Ed.

Coordinator of the Government Law Center

ALBANY LAW SCHOOL

80 New Scotland Avenue

Albany, NY 12208-3494

Office: (518) 445-2329

Cell: (518) 414-3043

E-mail: calbe@albanylaw.edu

www.albanylaw.edu/GLC

Gmail

Bill Federice <federicebill@gmail.com>

Police Accountability - Letter to Editor

2 messages

stinson <stinson@midtel.net> Fri, Feb 26, 2021 at 1:38 PM
To: mayor@cobleskill.org
Cc: federicebill@gmail.com

For the interest of Law Enforcement Review Committee, WRS

-------- Forwarded Message --------
Subject: Letter to Editor
Date: Fri, 26 Feb 2021 12:04:24 -0500
From:stinson <stinson@midtel.net>
To:TJ <tjournalnews@yahoo.com>

26 February 2021

To the Editor

The Times Journal

Concerning police oversight (Who Will Watch the Police, TJ 2.17.21), much is to be learned about the issue from the Law Enforcement Review Committee's (LERC) response to a suggestion of a Police Citizen Review Board. Police Committee members exhibited substantial push back concerning the question of citizen oversight. Their claim is essentially that existing structures provide the needed opportunity for citizen oversight. My experience has been to the contrary.

Sheriff Stevens suggests folks can bring their concerns directly to him, and vote him out if dissatisfied. Sounds great but, many citizens would not feel confident enough to personally confront the Sheriff. The power imbalance is far too great for most to overcome.

Other Sheriff's Department staff and LERC Chairman Federice offered that the Board of Supervisors and the Board's Law Enforcement Committee can serve the public's oversight needs. It doesn't work. See https://scfpg.blogspot.com/p/camp-homicide.html

In some jurisdictions around the state independent entities have been established to receive citizen complaints regarding police performance. Such efforts have had limited effectiveness. If such an entity were established it would have to be empowered to represent the public's needs and must have authority to effect the police services.

Absent an effective independent commission to serve as an intermediary, citizens do have the ballot box solution suggested by Sheriff Stevens. Citizens should take their police performance complaints to their elected representatives in

local government. If those officials fail to adequately represent them and act on their complaint, they can remove those officials from office at the next opportunity. Holding elected representatives accountable for police performance is the necessary first step in achieving police accountability.

Wayne Stinson

summit, NY

Bill Federice <federicebill@gmail.com> Sun, Feb 28, 2021 at 12:37 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Becky Stanton <mayor@cobleskill.org>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

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Gmail **Bill Federice <federicebill@gmail.com>**

recommendations from Rural Awakening

2 messages

Pat Hults <hultsp@outlook.com> Fri, Feb 26, 2021 at 3:21 PM
To: Bill Federice <federicebill@gmail.com>

Rural Awakenings recommendations for the committee.

Patricia Hults

Sent from Outlook

AlternativePlanforAction_CountyRecommendations_Feb25.docx
19K

Bill Federice <federicebill@gmail.com> Sun, Feb 28, 2021 at 12:39 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Becky Stanton <mayor@cobleskill.org>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

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AlternativePlanforAction_CountyRecommendations_Feb25.docx
19K

Alternative Plan for Action
Schoharie County Sheriff Department
In Response to EO 203

EO 203 requires a plan of action leading to improvements in policing departments within the State of New York.

- **Citizens Collaborative Committee / Citizens Advisory Committee (or name TBD)** – As discussed and agreed by the Sheriff's Office at the February 9, 2021 Law Enforcement Review Meeting and further discussed at the February 16, 2021 meeting, a Citizens Collaborative Committee (CCC) will meet quarterly for the purposes of reviewing compliance with the County EO 203 Plan and discussing law enforcement issues as they relate to the Schoharie County Sheriff's Office. The CCC should report to the Law Enforcement and Judicial Committee any citizen's complaint that they are aware of, review the data noted below as well as ~~annually~~ review policies of the Sheriff's Office as needed. ~~to see that they conform to current best practices.~~ It is important that progress on the Plan be reviewed to identify what is and is not working and adapt strategies accordingly. As appropriate, the CCC will report to the Schoharie County Board of Supervisors Law Enforcement and Judicial Committee any findings or recommendations. If accepted by the Law Enforcement and Judicial Committee, the recommendations will be forwarded to the full Board of Supervisors for comments and/or adoption or to the Sheriff, as applicable. The CCC will consist of five Schoharie County citizen members appointed by the Board of Supervisors to two-year terms, to be reflective of diverse communities within the county; the Sheriff or his/her designee; and one member of the Board of Supervisors outside of the Law Enforcement Judicial Committee.

- **Transparency** - Policing policies and practices require transparency to earn public trust. Transparency means that the police department provide information to the public upon request in all police events. Transparency should include policies, officers' disciplinary records, body camera recordings, other pertinent material, and complaints. Complainants must have the ability to review results of their complaint. Transparency must also be timely. NYS law now requires the release of disciplinary records through FOIL request; agencies should fully comply, in the spirit of transparency.

- **Implicit Bias Training** - The Sheriff's Department shall continue to provide and the County shall support adequate and substantial training specifically focusing on implicit bias, and it shall be repeated/updated regularly, at least annually. Funding for such training is essential, and should be allocated by the relevant government body.

- **De-escalation Training** - The current emphasis on de-escalation training shall be continued and supported by the county. Funding for such training is essential, and should be allocated by the relevant government body.

- **Police Culture** - A police culture that does not tolerate misbehavior, and holds officers accountable should continue to be fostered, supported and promoted. This includes peer accountability and support, re-training when necessary, and firing and/or bringing criminal charges when appropriate. Leadership must be role models and enforce policies.

- **Mental Health Services and Use** – Not only should officers continue to have access to high quality mental health services, but the department shall continue to foster and strengthen a work environment that encourages and normalizes use of such services.

- **Law Enforcement Arrest Data** – Once available, the Schoharie County Sheriff's Department and Citizens Collaborative Committee will review arrest data collected by the Court systems and arrest data collected by the Sheriff's Office. The Court system data will be accessed on the public websites of the Division of Criminal Justice Services and the Office of Court Administration as mandated by the State under the New York State Police Statistics and Transparency Act enacted June 2020. It is recognized the usefulness of the data will be subject to the quality and timeliness of what the State provides. The intent of these ~~analysis~~ analyses is to measure the impact of county policing on diverse members of the community, particularly those historically underrepresented and overly impacted.

- **Reporting Excessive Use of Force** – Studies indicate two of the most important deterrents to excessive use of force are intervention by other police officers and reporting excessive use of force by fellow police officers. The County Sheriff's Department policy has a clear imperative to intervene when observing excessive use of force. The requirement to report excessive use of force is less clear and opens the door to under-reporting such incidents. The Sheriff's Department should clarify the language of the policy to reinforce the need to report.

- **LEAD Program** –The Schoharie County Sheriff's Office participates in a successful pre-arrest diversion program and that program is currently expected to be expanded.

- **Development of multi-agency critical incident response team**-The Sheriff's Office is currently involved in the formulation of a critical incident response team, work and training on this effort should continue. ~~LEAD Program –The Schoharie County Sheriff's Office participates in a successful pre-arrest diversion program and that program is currently expected to be expanded~~

In the course of the EO 203 review process, the Use of Force and related policies were completely revised by the Sheriff's Department, continuing a process that had begun before the EO 203 order. These policies were fully shared with the public and input into changes was listened to, with some specific policies adjusted. The community members involved in the process are appreciative of the time, effort, and openness of the police officers involved. The

community members also recognize that some reforms are outside the scope of individual police departments.

~~Development of multi-agency critical incident response team-The Sheriff's Office is currently involved in the formulation of a critical incident response team, work and training on this effort should continue.~~

Gmail **Bill Federice <federicebill@gmail.com>**

LEAD program

2 messages

Pat Hults <hultsp@outlook.com> Sat, Feb 27, 2021 at 7:23 AM
To: Bill Federice <federicebill@gmail.com>, Wendy Cook <wcook001@luthersem.edu>, Alyson Montione <montionea@gmail.com>, Paden/Meadows <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Reggie Harris <regerino42@gmail.com>, Theresa Heary <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, Pastor Ray Richards <pastorray@cagcobleskill.org>

Early in the review process there was quite a bit of time devoted to the LEAD program - explaining what it is and the services it offers. The Sheriff's Department was an early adopter in the State. We have kind of forgotten about it as we look at recommendations. It truly is one of those transformative programs that switches the emphasis from arrest and punishment to one of prevention and healing. It is just the kind of change in policing we all would like to see more of.

One of our recommendations should focus on that program - noting the progressive thinking of the Sheriff's Department for engaging in it early and it's expansion to include people before they run into the law. An action can be to look at ways to support and improve the program - there is probably already a group in place that could speak to that - Catholic Charities and the Sheriff's Department. Does it get enough funding? Is there follow-up analysis on the success rate among participants (and how is that measured?)? What are the road blocks the program faces? Another thing to look at is that a program that relies on officer discretion on who is diverted into that program needs to keep alert so that implicit bias isn't directing who gets into the program. Is that being addressed?

This program is a real win and should be included in the recommendations.

Patricia Hults

Bill Federice <federicebill@gmail.com> Sun, Feb 28, 2021 at 12:40 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Becky Stanton <mayor@cobleskill.org>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Citizen Advisory Task Force/Board

Pat Hults <hultsp@outlook.com> Fri, Feb 19, 2021 at 6:19 AM
To: Bill Federice <federicebill@gmail.com>

New name for the Citizen Review Board?
Citizen Advisory Board
Citizen Task Force

Patricia Hults

Gmail

Bill Federice <federicebill@gmail.com>

Citizen Advisory Task Force/Board

Bill Federice <federicebill@gmail.com> Fri, Feb 19, 2021 at 6:36 AM
To: Pat Hults <hultsp@outlook.com>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Harrison Peter <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Becky Stanton <mayor@cobleskill.org>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Debbie Paden <windmill@midtel.net>, Wendy Cook <wcook001@luthersem.edu>

Whatever the consensus is and if the Board approves.

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

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http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Fwd: Invitation to roundtables on police reform and Executive Order 203

2 messages

Pat Hults <hultsp@outlook.com> Thu, Feb 4, 2021 at 6:12 PM
To: Bill Federice <federicebill@gmail.com>

Hi Bill,
This may of interest to you. - Pat

Patricia Hults

Begin forwarded message:

From: Paden/Meadows <windmill@midtel.net>
Date: February 4, 2021 at 5:57:14 PM EST
To: Pat Hults <hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Reggie Harris <regerino42@gmail.com>, Theresa Heary <theresa.heary@gmail.com>, Wendy Cook <wcook001@luthersem.edu>, Alyson Montione <montionea@gmail.com>, Bobbi Wilding - personal <shelaria@gmail.com>
Subject: FW: Invitation to roundtables on police reform and Executive Order 203

Note sure whether you received this.... I plan to join the discussions. Debbie

From: Ayers, Ava [mailto:aayer@albanylaw.edu]
Sent: Thursday, February 04, 2021 10:31 AM
To: Ayers, Ava
Subject: Invitation to roundtables on police reform and Executive Order 203

Dear friends and colleagues,

I'm writing to let you know that the Government Law Center will hold two roundtable discussions on police reform under Governor Cuomo's Executive Order 203. These discussions will be an opportunity for anyone involved in the process, including local officials and community members, to hear about how other jurisdictions are responding to the order: what's being included in reform plans, as well as what procedures are being followed. The Government Law Center has spoken with numerous municipalities about their response to the Executive Order, and the single thing we've heard the most often is a desire to compare notes with other municipalities. We hope these forums will be a useful opportunity to do that.

Each roundtable will begin with a brief summary of what's happening in various localities; we'll provide examples of plans that have been issued by various jurisdictions for you to consider. (The Government Law Center has compiled some examples of the draft plans that have been circulated so far; you can find links in this spreadsheet.) We'll also have a discussion of some key issues that many municipalities are considering. We'll invite folks from the municipalities to speak to each other in an open discussion, moderated over Zoom, so that folks can learn from each other's experience to the greatest extent possible.

The first roundtable, on February 9, is open to anyone with an interest in the police-reform processes that are going forward under the Executive Order. The second roundtable, on February 18th, will focus specifically on rural communities, whose challenges are in many ways unique.

If you'd like to propose a question or issue for discussion, you're welcome to submit them in advance by sending them to glc@albanylaw.edu. To register for the programs, use these links:

Feb. 9 - https://alumni.albanylaw.edu/s/977/18/interior-one-col.aspx?sid=977&gid=1&pgid=3293&content_id=3935

Feb. 18 - https://alumni.albanylaw.edu/s/977/18/interior-one-col.aspx?sid=977&gid=1&pgid=3296&content_id=3937

We hope you'll join us. And please feel free to forward this message to anyone you think might be interested.

Many thanks,
Ava

Ava Ayers | Director of the Government Law Center and Assistant Professor of Law

Albany Law School | 80 New Scotland Avenue | Albany, NY 12208

(518) 445-2351 | Papers | Book | Bio | Formerly Known As | Pronouns: she/her

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Bill Federice <federicebill@gmail.com> Fri, Feb 5, 2021 at 12:44 PM
To: Pat Hults <hultsp@outlook.com>

Thanks Pat.

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Subjects not yet discussed by County

Bruce Baker <bruce.baker@co.schoharie.ny.us> Tue, Feb 2, 2021 at 9:30 AM
To: Bill Federice <federicebill@gmail.com>, "candacee@ccalbany.org" <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Peter Harrison <kingdomnoyze@verizon.net>, Wendy Cook <wcook001@luthersem.edu>, Paden/Meadows <windmill@midtel.net>

Good snowy morning-

I have attached some key items that I believe will answer some of the inquiries listed below. The first pertains to a NYS Court of Appeals decision in 2019 that makes all body camera footage accessible. It would be obtained via a FOIL request. The second portion is the repeal of 50a, which previously shielded law enforcement officers personnel files records. Again these are FOIL request items. This includes disciplinary records. Both of which lend themselves to accountability and transparency.

The Sheriff's Office will be including Implicit Bias and De-Escalation training into its annual schedule as well as annual Procedural Justice refreshers.

We are working on a formalized complaint form and availability to obtain the forms. Any such complaint against an officer will be investigated and those results will be given to the complainant.

We have also completed several of the suggested changes within the CEW and UOF policies as well as the BodyCam policy. Upon confirmation from the Sheriff I will forward those.

Further we have extended the LEAD program as previously discussed and we have now added a faith component to the working group as yet another avenue to assist those in need.

From: Bill Federice <federicebill@gmail.com>
Sent: Tuesday, January 19, 2021 11:32 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>; Candace Ellis <candacee@ccalbany.org>; Dick Lape <lapelspc@midtel.net>; Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>; Harold Vroman <haroldvroman@aol.com>; John Leavitt <john.leavitt@co.schoharie.ny.us>; Pastor Ray Richards <pastorray@cagcobleskill.org>; Peggy Hait <jeffersontwnsup@gmail.com>; Ronald Stevens <ronald.stevens@co.schoharie.ny.us>; Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>; Patricia Hults <Hultsp@outlook.com>; Wendy Cook <wcook001@luthersem.edu>; Peter Harrison <kingdomnoyze@verizon.net>

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2 attachments

NY State Senate Bill S8496.htm
130K

BODY CAM APPELLATE DECISION.pdf
1456K

Gmail

Bill Federice <federicebill@gmail.com>

Additions to your list

2 messages

Pat Hults <hultsp@outlook.com> Mon, Feb 1, 2021 at 5:52 PM
To: Bill Federice <federicebill@gmail.com>

Rural Awakening would like to add the following items to your list of recommendations/actions for the committee to consider. Thank you - Pat

Access to high quality mental health services for officers with departmental normalization of such service.

Clearer imperatives that require officers to both intervene when they see use of excessive force and the requirement to report use of excessive force.

Clearer imperative that body cams be turned on and operating at all times when force of any kind may be used.

Banning of chokeholds

Inclusion of the concept of the use of reasonable, proportional, and necessary force in Use of Force policies.

Adoption of a higher standard than "objective reasonablenes" in use of force policies

Replacement of the concept of imminent danger with the use of imminent danger.

Patricia Hults

Bill Federice <federicebill@gmail.com> Mon, Feb 1, 2021 at 8:08 PM
To: Colleen Flynn <colleen.flynn@co.schoharie.ny.us>, "Dr. Amy Gildemeister" <amy.gildemeister@co.schoharie.ny.us>, Eva Gigandet <eva.gigandet@co.schoharie.ny.us>, Mike Hartzel <michael.hartzel@co.schoharie.ny.us>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Wilson <steven.wilson@co.schoharie.ny.us>
Cc: Becky Stanton <mayor@cobleskill.org>, CJ Smith <carmella.smith@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>

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—
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Subjects not yet discussed by County

Bruce Baker <bruce.baker@co.schoharie.ny.us> Tue, Jan 26, 2021 at 11:39 AM
To: Bill Federice <federicebill@gmail.com>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

Draft of 304 CED (Taser Policy) that will be discussed at today's meeting

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304.pdf
22K

Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the TASER (TM).

304.2 POLICY

The TASER device is used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to deputies and suspects.

304.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed office-approved training may be issued and may carry the TASER device.

TASER devices are available to Deputies for use while on-duty, particularly Deputies assigned to the Patrol Division.

Deputies shall only use the TASER device and cartridges that have been issued by the Office. Uniformed deputies who have been issued the TASER device shall wear the device in an approved holster. Non-uniformed deputies may secure the TASER device in the driver's compartment of their vehicles.

Members carrying the TASER device should perform a spark test prior to every shift.

When carried while in uniform, deputies shall carry the TASER device in a support-side holster on the side opposite the duty weapon.

(a) All TASER devices shall be clearly and distinctly identifiable in a manner which makes them easy to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, deputies should carry two or more cartridges on their person when carrying the TASER device.

(c) Deputies shall be responsible for ensuring that the issued TASER device is properly maintained and in good working order.

(d) Deputies should not hold a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of deputies or when it is not practicable due to the circumstances. The purpose of the warning is to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other deputies and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with a deputy's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy may, but is

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not required, to display the electrical arc (provided that a cartridge has not been loaded into the device) or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the deputy deploying the TASER device in the related report.

304.5 USE OF THE TASER DEVICE

The TASER device has limitations and restrictions requiring consideration before its use. The TASER device should only be used when its operator can safely approach the subject within the operational range of the device. Although the TASER device is effective in controlling most individuals, deputies should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE TASER DEVICE

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the deputy at the time indicate that such application is reasonably necessary to control a person:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm deputies, him/herself or others.

Mere flight from a pursuing deputy, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual. The TASER device shall not be used to psychologically torment, to elicit statements or to punish any individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER device on certain individuals should be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the deputy, the subject or others, and the deputy reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between deputies and the subject, thereby giving deputies time and distance to consider other force options or actions.

304.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin should be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the deputy to limit the application of the TASER device probes to a precise target area, deputies should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Deputies should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Deputies should not intentionally apply more than one TASER device at a time against a single individual.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the deputy should evaluate the situation and consider certain factors before additional applications of the TASER device, including:

(a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

(b) Whether the probes are making proper contact.

(c) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(d) Whether verbal commands or other options or tactics may be more effective.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Deputies should take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the TASER device. As soon as practicable, deputies shall notify a supervisor any time the TASER device has been discharged. Anti-Felon ID (AFID) tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

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304.5.7 OFF-DUTY CONSIDERATIONS

Deputies are not authorized to carry office TASER devices while off-duty.

Deputies shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Deputies shall document all TASER device discharges in the related arrest/crime reports, inthe TASER device report forms and in a Use of Force form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device, other than for testing purposes, will also be documented on the report form.

304.6.1 TASER DEVICE REPORT FORM

Items that shall be included in the TASER device report form are:

(a) The type and brand of TASER device and cartridge and cartridge serial number.

(b) Date, time and location of the incident.

(c) Whether any display, laser or arc deterred a subject and gained compliance.

(d) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.

(e) The range at which the TASER device was used.

(f) The type of mode used (probe or drive-stun).

(g) Location of any probe impact.

(h) Location of contact in drive-stun mode.

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any deputies sustained any injuries.

The Training Coordinator should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Coordinator should also conduct audits of data downloads and reconcile TASER device report forms with recorded activations.

304.6.2 REPORTS

The deputy should include the following in the arrest/crime report:

(a) Identification of all personnel firing TASER devices

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

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(e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Deputies should remove TASER device probes from a person's body in a manner consistent with their traning and experience. If a subject has a probe lodged in a sensitive area (head, face, neck, breast, genitals, eye, etc.) medical personnel should be requested to respond to remove the probes and treat the subject as may be needed. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person is suspected of being under the influence of controlled substances and/ or alcohol.

(b) The person may be pregnant.

(c) The person reasonably appears to be in need of medical attention.

(d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).

(e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another deputy and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting deputy shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device (see the Medical Aid and Response Policy).

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a Firearms Instructor and saved with the related arrest/crime report. Photographs of probe sites should be taken if practicable and witnesses interviewed.

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304.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial office-approved training. Any personnel who have not carried the TASER device as a part of their assignments for a period of six months or more shall be recertified by a qualified TASER device instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of a deputy's knowledge and/or practical skills may be required at any time if deemed appropriate by the Training Coordinator. All training and proficiency for TASER devices will be documented in the deputy's training files.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Deputies who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with deputies who use the device.

The Training Coordinator is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injuries and should not be mandatory for certification.

The Training Coordinator should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the TASER device.

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Gmail

Bill Federice <federicebill@gmail.com>

Village of Cobleskill draft plan submitted

1 message

mayor@cobleskill.org <mayor@cobleskill.org> Tue, Jan 26, 2021 at 11:59 AM
To: Federicebill <federicebill@gmail.com>, Bruce Baker <bruce.baker@co.schoharie.ny.us>

Forwarding for your review. This is the final document submitted to the Village Board at the January board meeting. The public hearing is scheduled for the February board meeting. Adoption will likely follow at the March board meeting. I did watch your last meeting on SCHOPEG. In regard to your question Bill, the Village PD has a working and collaborative relationship with both the NYS Police and SUNY PD. They are exempt from the 203 EO as you know. Why?, one may ask? Think about it. And as far as the Village of Cobleskill PD is concerned, we came to the same conclusion. We already follow NYS law. We do not wish to reinvent the wheel, and we do not wish to cause problems where there currently are none. We were in the process of updating our policies and procedures and in light of the national call to action, we are most willing to make additions to our training policies. That's it in a nutshell. Not sure if I will be there today. Stay well.

--
Rebecca Stanton-Terk, Mayor
Village of Cobleskill
378 Mineral Springs Rd
Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978

draft plan.pdf
137K

Gmail Bill Federice <federicebill@gmail.com>

Subjects not yet discussed by County

Pat Hults <hultsp@outlook.com> Tue, Jan 19, 2021 at 10:18 AM
To: Bill Federice <federicebill@gmail.com>
Cc: Theresa Heary <theresa.heary@gmail.com>, Paden/Meadows <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Reggie Harris <regerino42@gmail.com>, Wendy Cook <wcook001@luthersem.edu>, Alyson Montione <montionea@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>

Below are the subjects Rural Awakening feels have either not been addressed yet, or warrant further discussion. How do we find out the call-in number for today's meeting? Thank you. -Pat

Patricia Hults

We reviewed our initial recommendations and these are the issues that we believe still need discussion:
The need for transparency and accountability;
Access to information about complaints;
Access to body cam videos;
Access to information about disciplinary actions;
Establishment of County-wide police review committee to include village and county members, with specific charge of ongoing review of policy, among other duties; and
De-escalation training.

We want to be sure that structures are created so that this discussion continues after E0 203 has been complied with, a police review committee may be one way to accomplish that continuing dialogue. Accountability has been addressed in some of the policies that we have reviewed but it is an overarching concept that is essential for a strong institutional culture and for mutual trust between the community and the police. The Sheriff's Office must engage in meaningful review of officer conduct, including use of force, to give the community confidence that misconduct is identified and the conduct is appropriately addressed. Much of the current unrest across the country is rooted in a belief that some police departments tolerate abuse of authority, including excessive force and other misconduct or adhere to practices that are inconsistent with community values. In the long run, this belief will harm police officers as well as degrade public safety. As the Committee develops it's plan, consider whether improvements are needed in community oversight structures, accountability mechanisms or other efforts to shape and maintain a healthy and productive institutional culture.

The attached outline is on the Conference of Mayors website and we thought that the Committee might find it helpful as they develop their plan.

Thank you again for the opportunity to provide input!

NYS_Police_Reform_and_Reinvention_Guidance_PDF.pdf
187K

Police Reform Collaborative Process: Key Questions and Insights for Consideration

(excerpt from Executive Chamber guidance document)

What Functions Should the Police Perform?

1. Determining the Role of the Police
    - How should the police and the community engage with one another?
    - What role do the police currently play in your community?
    - Should you deploy social service personnel instead of or in addition to police officers in some situations?
    - Can your community reduce violence more effectively by redeploying resources from policing to other programs?
    - What function should 911 call centers play in your community?
    - Should law enforcement have a presence in schools?

2. Staffing, Budgeting, and Equipping Your Police Department
    - What are the staffing needs of the police department the community wants?
    - Should components of the police department be civilianized?
    - How should the police engage in crowd control? Should the police be "demilitarized"?

Employing Smart and Effective Policing Standards and Strategies

1. Procedural Justice and Community Policing
    - Specific policing strategies that have raised concerns among the public
        - "Broken windows" and "stop and frisk"
        - Discriminatory or bias-based stops, searches and arrests
        - Chokeholds and other restrictions on breathing
        - Use of force for punitive or retaliatory reasons
        - Pretextual stops

- Informal quotas for summonses, tickets or arrests
- Shooting at moving vehicles and high speed pursuits
- Use of SWAT teams and no-knock warrants
- Less-than-lethal weaponry such as tasers and pepper spray
- Facial recognition technology

2. Law Enforcement Strategies to Reduce Racial Disparities and Build Trust
    - Using summonses rather than warrantless arrests for specified offenses
    - Diversion programs
    - Restorative justice programs
    - Community-Based outreach and violence interruption programs
    - Hot-Spot policing and focused deterrence
    - De-Escalation strategies
    - Can your community effectively identify, investigate and prosecute hate crimes?

3. Community Engagement
    - Community outreach plans
    - Citizen advisory boards and committees
    - Partnership with community organizations and faith communities
    - Partnering with students and schools
    - Police-community reconciliation
    - Attention to marginalized communities
    - Involving youth in discussions on the role of law enforcement agencies

Fostering Community-Oriented Leadership, Culture and Accountability

1. Leadership and Culture
    - Is your leadership selection process designed to produce the police community relationship you want?
    - Does your officer evaluation structure help advance your policing goals?

- What incentives does your department offer officers to advance policing goals?
- Does your hiring and promotion process help build an effective and diverse leadership team?
- What is your strategy to ensure that your department's cultural-norms and informal processes reflect your formal rules and policies?

2. Tracking and Reviewing Use of Force and Identifying Misconduct
    - When should officers be required to report use of force to their supervisor?
    - What internal review is required after a use of force?
    - Does your department review officers' use of force and/or misconduct during performance reviews?
    - Does your department use external, independent reviewers to examine uses of force or misconduct?
    - Does your department leverage Early Intervention Systems (EIS) to prevent problematic behavior?
    - Does your department review "sentinel" or "near-miss" events? Does the department respond to questionable uses of force with non-punitive measures designed to improve officer performance?

3. Internal Accountability for Misconduct
    - What does your department expect of officers who know of misconduct by another officer?
    - Does your department have a clear and transparent process for investigating reports of misconduct?
    - Does your department respond to officer misconduct with appropriate disciplinary measures?
    - What procedures are in place to ensure that substantiated complaints of misconduct and settlements or adverse verdicts in lawsuits are used to reduce the risk of future misconduct?

- What controls are in place to ensure impartiality when reviewing potential misconduct or complaints? When appropriate, are cases referred to either the District Attorney or another prosecutor?
- Does your department expect leaders and officers to uphold the department's values and culture when off-duty?

4. Citizen Oversight and Other External Accountability
    - Does or should your department have some form of civilian oversight over misconduct investigations or policy reform?
    - Is there an easy, accessible and well-publicized process for members of the public to report complaints about police misconduct?
    - Are investigation outcomes reported to the complainant? Are they reported to the public? Should the department or the citizen complaint review entity, if any, accept anonymous complaints?
    - Does your local legislature engage in formal oversight of the police department? Should any changes be made in the legislature's oversight powers or responsibilities?
    - Is your police department accredited by any external entity?
    - Does your police department do an annual community survey to track level of trust?

5. Data, Technology and Transparency
    - What police incident and complaint data should be collected? What data should be available to the public?
    - How should your law enforcement agency leverage data to drive policing strategies?
    - How can your police department demonstrate a commitment to transparency in its interactions with the public?
    - How can your police department make its policies and procedures more transparent?

- How can your police department ensure adequate transparency in its use of automated systems and "high-risk" technologies?
- Should your police department leverage video cameras to ensure law enforcement accountability and increase transparency?

Recruiting and Supporting Excellent Personnel

1. Recruiting a Diverse Workforce
    - Does your agency reflect the diversity of the community it serves?
    - What are ways in which your agenoy recruits diverse candidates that better represent the demographics of the communities you serve?
    - What are ways in which you can re-evaluate hiring practices and testing to remove barriers in hiring underrepresented communities?
    - How can you encourage youth in your community to pursue careers in law enforcement?
    - What actions can your agency take to foster the continued development and retention of diverse officers?

2. Training and Continuing Education
    - How can you develop officer training programs that reflect your community values and build trust between police officers and the communities they serve?
    - What training policies can you adopt to ensure that police officers continuously receive high-quality, relevant in-service training sessions?
    - How can leadership training improve community policing and strengthen relationships between your police department and members of the public?
    - How can your police department use its training programs to avoid incidents involving unnecessary use of lethal or nonlethal force?
    - How can your police department use its training programs to avoid potential bias incidents and build stronger connections with communities of color and vulnerable populations?

- How can your training program help officers effectively and safely respond to individuals experiencing mental health crises or struggling with substance abuse?
- What practices and procedures can you put in place to measure the quality and efficacy of your police department's training programs?

3. Support Officer Wellness and Well-being
    - What steps can you take to promote wellness and well-being within your department?
    - Are there ways to address officer wellness and well-being through smarter scheduling?
    - How can you effectively and proactively address the mental health challenges experienced by many police officers throughout their careers?
    - How can you address the well-being of an officer after a traumatic event?

Schoharie County Sheriff's Office

Subject: Provisions BODYCAM "Body-Worn Cameras" Recording System						Policy: BC120
References/Standards:						
Effective: **January 14, 2020**			Distribution: **All Personnel**		Amends:	
Prepared by: **Sheriff Ronald R. Stevens**			Revised:		Rescinded:	
Reviewed Date:						

PURPOSE:

To establish uniform guidelines for the use of the Provisions BODYCAM "Body-Worn Cameras" recording system. The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bite hard drives. Once captured, these recording cannot be altered in any way

POLICY:

The Schoharie County Sheriff's Office has adopted the use of the Provisions BODYCAM "Body-Worn Cameras" recording system to accomplish the following policy goals:

A. To enhance Deputy and Investigators safety.
B. To accurately capture statements and events during the course of an incident.
C. To enhance the Deputies and Investigators ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation.
D. To provide an impartial measurement for self-critique and field evaluation for new Deputy training.
E. To capture visual and audio information for use in current and future investigations.
F. To enhance the public trust by preserving factual representation of Deputy/Investigator-citizen interactions in the form of audio and video recording.

All Deputies and Investigators that have been issued a Provisions BODYCAM "Body-Worn Cameras" recording system shall wear it on their uniform at all times, with the exception of training days, funerals, award ceremonies, or other events approved by a supervisor. The use of personal cell phones or electronics to view or categorize data is PROHIBITED.

TRAINING:

A. Deputies and Investigators will not utilize the "Body-Worn Cameras "recording system until they have received the proper training.

B. Training will consist of, but not limited to:

1. A review of the system, its functions, proper usage, activation and deactivation.
2. A review of the user manual and SCSO policy governing its use.
3. A hands-on review of the "On Deputy" video recording system.
4. The retention and storage features and procedures for placing data into evidence.

C. Normal (Buffering) Mode — The Provisions BODYCAM "Body-Worn Cameras" recording system will be set at a continuous 30 second loop at which time video only (No audio) will be recorded while buffering.

D. Event Mode — Once activated, the Provisions BODYCAM "Body-Worn Cameras" video recording system saves the buffered video and continues recording audio and video for up to eight (8) hours. Pressing the function button places markers on the media segment for later viewing in EVIDENCE.com,

OPERATIONAL PROTOCOLS:

A. If assigned a Provisions BODYCAM "Body-Worn Cameras" recording system it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the Provisions BODYCAM "Body-Worn Cameras" recording system in the scope of his/her duties.

B. It will be the responsibility of each Deputy or Investigator that once the Provisions BODYCAM "Body-Worn Cameras" recording system has been activated; it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene, or the citizen contact is complete.

C. There will be times when, due to the nature of law enforcement work, exigent circumstances prevent the Deputy or Investigator from activating the "Body-Worn Cameras" video recording system.

1. In those types of events the Deputy or Investigator will document the reason for not activating the "On Deputy" video recording system.

D. Deputy or Investigator will avoid recording a *child victim* of any sex offense.

1. In the event that the report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort will be made to discontinue recording promptly in accordance with policy.

E. To respect the dignity of others, Deputies *should advise persons who are nude or whose sensitive human areas are exposed of recording.*

F. The Provisions BODYCAM "Body-Worn Cameras" recording system will not be used to record personal activity.

G. The Provisions BODYCAM "Body-Worn Cameras" recording system will be turned off for any courtroom testimony, this does not apply to Deputy Sheriff's assigned as court security.

H. The Provisions BODYCAM "Body-Worn Cameras" recording system shall not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-law enforcement related activities.

I. Deputies and Investigators will avoid recording any interactions with informants or undercover Officers.

J. Deputies and Investigators will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the Deputy will immediately notify their supervisor, document the malfunction and the supervisor is responsible to notify the Undersheriff, or their designee.

K. Deputies and Investigators will immediately report any loss or missing part of the "Body-Worn Cameras" recording system to their supervisor and will prepare a report outlining such loss or missing part. The supervisor is responsible for making immediate notification to the Undersheriff, or their designee.

L. Corrections Division Shift Supervisors will wear the Provisions BODYCAM during each respective tour of duty. Supervisors will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the supervisor will immediately document the malfunction and the supervisor is responsible to notify the Jail Administrator, Undersheriff, or their designee.

M. Corrections Division Shift Supervisors will activate the BODYCAM recording system at anytime there is disruption, use of force, inmate disciplinary interviews or hearings, search of the facility for contraband, or other criminal act within the facility. Such recording will continue until the incident has been deemed concluded and the facility has been made safe.

EVIDENTIARY PROTOCOLS:

A. At the end of their shift, or periodically during shift, deputies and Investigators will place the Provisions Camera and battery into a designated slot of the Docking Station, which will allow the data to be transferred from the Provisions camera through the ETM to a terra bite storage hard drive. If a deputy chooses to leave the Provisions camera in a Docking Station at end of shift, he/she must immediately retrieve it at beginning of their next shift, unless there is an emergency call requiring immediate response.

B. Deputies and Investigators will not allow citizens to review any recordings.

C. The release of audio/video data requested through a public records release request will be subject to the same statutory exemptions from disclosure as any other departmental records.

D. Deputies and investigators will not make copies of any recording for their personal use and are prohibited from using a recording device (such as a telephone, camera or secondary video camera) to record any media stored on Sheriff's Office evidence hard drive or the Provisions Camera unit.

E. Deputies and Investigators will have the ability to review their recordings to ensure accurate written reports but will not be able to alter the contents of any audio/video recording that has been recorded.

A 710.30 Notice must be prepared, or the District Attorney's Office notified that the Deputy or Investigator intends to use any of the defendant's recorded audio or video recorded statements for prosecution.

F. All digital media collected using the Provisions BODYCAM "Body-Worn Cameras" recording system is considered an official record of the Schoharie County Sheriff's Office. Accessing, copying or releasing any media for other than official law enforcement purposes is strictly prohibited, except as required by law.

G. In the event that a particular recording is required for any court proceeding it is the Deputies or Investigators responsibility to notify the Undersheriff, or their designee, in writing requesting a copy of the stored data for that purpose. The Undersheriff or their designee, will make a notation in the case report that a copy of the video recording was made and was turned over to whoever requested such recording.

a **attached Property/Evidence Pull Request Form*

ADMINISTRATOR RIGHTS:

The Undersheriff, Sheriff or their designee(s), shall be the only person(s) within the SCSO to have administrator rights to all recordings stored on the Sheriff's Office Evidence hard drives or their back systems.

Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to office members that affirms the Schoharie County Sheriff's Office 's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the office's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach and partnerships).

401.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

401.2 POLICY

The Schoharie County Sheriff's Office is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this office to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit a deputy from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.4 MEMBER RESPONSIBILITIES

Every member of this office shall perform his/her duties in a fair and objective manner. Members should, when reasonable to do so, intervene to prevent any bias-based actions by another member.

401.4.1 REASON FOR CONTACT

Deputies contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

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To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved deputy should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any deputy to document a contact that would not otherwise require reporting.

401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved deputy and his/her supervisor in a timely manner.

    1. Supervisors should document these discussions, in the prescribed manner.

(b) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(c) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this office who discloses information concerning bias-based policing.

401.6 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Coordinator.

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Portable Audio/Video Recorders

424.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Schoharie County Sheriff's Office facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

424.2 POLICY

The Schoharie County Sheriff's Office will provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public, to enhance Deputy and Investigator's safety and ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation, to provide an impartial measurement for self-critique and field evaluation for new deputy training, to capture visual and audio information for use in current and future investigations and most importantly, to enhance the public trust by preserving factual representation of Deputy/ Investigator interactions with the public in the form of audio and video recordings.

424.3 COORDINATOR

The Sheriff or authorized designee(s) should designate a coordinator responsible for:

(a) Establishing procedures for the security, storage and maintenance of data and recordings.

(b) Establishing procedures for accessing data and recordings.

(c) Establishing procedures for logging or auditing access.

(d) Establishing procedures for transferring, downloading, tagging or marking events.

424.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time, and any recording made while acting in an official capacity of this office, regardless of ownership of the device it was made on, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of recordings of a member conducting their official duties.

424.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Office, and that the recorder is in good working order. If the recorder is not in working order or if the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning

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device as soon as reasonably practicable. Members shall promptly report any lost, damaged or missing part of any recording system to their supervisor and will subsequesntly document such issue in memo form.

Any member assigned to a non-uniformed position should carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner.

Members shalldocument in any report or other official record of the contact, any instance where the recorder malfunctioned.. If a member deactivates the recording device for reasons other than routine and allowable reasons (i.e. report preparation, return to vehicle for information or other break from direct participation in the event), Members shallinclude the reason for de-activation.

424.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview situations.

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

(c) Self-initiated activity in which a deputy would normally notify Dispatch.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members will avoid recording a child victim of any sex offense. in the event that a report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort should be made to discontinue the recording promptly.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable. The Office recognizes that there will be times when, due to the nature of law enforcement work, exigent circumstances prevent the member from activation the recording system. In such instances the reason for not activating the recording system shall be documented in any report of the incident.

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Recording systems will not generally be used to record courtroom testimony. This does not apply to members assigned as court security or to members engaged in transportation of inmates or arrested subjects to court appearances.

424.6.1 CESSATION OF RECORDING
Once activated, the portable recorder should remain on continuously until his/her direct participation in the incident is complete. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. Any time the scene will be further documented by photographs and Evidence Technician(s) will be responding to do so (i.e. death investigations, burglaries, etc.) recording device may be deactivated upon the arrival of the investigator and/or evidence technician. Any such discontinuation of recording shall be documented in any report the member makes of the incident.

424.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER
New York law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission. Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

424.6.3 EXPLOSIVE DEVICE
Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

424.7 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Sheriff. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements, and shall notify their supervisor prior to such use..

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule. This does not preclude recordings from being used for training purposes.

Recording systems should not be intentionally used to record personal activities, if such a recording is inadvertently made it shall be the responsibility of the Office to ensure that those such portions of any recording not be released in any fashion either publicly or for courtroom purposes.

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Recording systems shall not be intentionally activated to record conversations of/with fellow employees without their knowledge during routine, non-law enforcement related activities.

424.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

Members should, at least once per shift, place the recording system into the docking station to allow the transfer of data onto the storage server.

To assist with identifying and preserving data and recordings, members shall complete a "Pull Request Form" for any incident in which recordings are routinely requested or produced (issuance of a UTT, Appearance Ticket or other arrest is made) and place the form in a designated file in accordance with current procedure and document the existence of the recording in any related case report.

A member should complete a "Pull Request Form"when the member reasonably believes:

(a) The recording contains evidence relevant to potential criminal, civil or administrative matters.

(b) A complainant, victim or witness has requested non-disclosure.

(c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

(d) Disclosure may be an unreasonable violation of someone's privacy.

(e) Medical or mental health information is contained.

(f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

A 710.30 Notice shall be prepared or the District Attorney's Office shall be notified if a member intends to use any of the defendant's recorded statements or actions as evidence against them.

424.9 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.

424.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

424.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Sheriff or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Records Access Officer prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Public Officers Law § 89).

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Gmail

Bill Federice <federicebill@gmail.com>

Rural Awakening Comments on Schoharie County Draft Bias Based Policing (#401) and Portable Audio/Video Recorder Policy (#424)

2 messages

Pat Hults <hultsp@outlook.com> Mon, Jan 18, 2021 at 7:25 PM
To: Bill Federice <federicebill@gmail.com>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>, "bruce.baker@co.schoharie.ny.us" <bruce.baker@co.schoharie.ny.us>

Below is our response to the new drafts of policy #401 and #424. Thank you for providing an opportunity for input.

Patricia Hults

1. Bias Based Policing Policy;

Our only comment on this policy is that it is not enough that the policy provides that race based policing bias is not allowed, whether or not it is occurring has to be evaluated. In order to monitor if there are trends within the Sheriff's Office indicating bias, we recommend that the Sheriff annually review and analyze data collected by the New York State Unified Court System as part of the Police Statistics and Transparency Act (The Laws of New York Article 7-A: Judicial Administration, Section 212) which requires NYS courts to compile and publish racial and other demographic data for low-level offenses. This recommendation is part of the Village of Cobleskill draft plan.

2. Portable Audio/Video Policy

We were provided with a copy of the current County Policy BC120 "Provisions BODYCAM 'Body –worn Cameras' Recording System." This policy provided: " All Deputies and Investigators that have been issued a …[body cam] shall wear it on their uniform at all times……If assigned a [body camera] it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the [body camera] recording system in the scope of his/her duties. …It will be the responsibility of each Deputy or Investigator that once the [body cam] has been activated, it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene or the citizen contact is complete." The policy also provides: "The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bit hard drives. Once captured, these recording cannot be altered in any way." Our only comment on that version of the policy was that body cam recordings should be made available to the public on a timely basis.

In June of 2020, New York enacted a new law that relates to body cameras that are to be worn by State Police (S8493/A8674). That new law, provides in part:

2. THE DIVISION OF STATE POLICE SHALL PROVIDE BODY-WORN CAMERAS, TO BE WORN BY OFFICERS AT ALL TIMES, WHILE ON PATROL. SUCH CAMERAS SHALL

RECORD:

(A) IMMEDIATELY BEFORE AN OFFICER EXITS A PATROL VEHICLE TO INTERACT WITH A PERSON OR SITUATION, EVEN IF THERE IS A DASH CAMERA INSIDE SUCH VEHICLE WHICH MIGHT ALSO BE RECORDING THE INTERACTION;

(B) ALL USES OF FORCE, INCLUDING ANY PHYSICAL AGGRESSION AND USE OF A NON-LETHAL OR LETHAL WEAPON;

(C) ALL ARRESTS AND SUMMONSES;

(D) ALL INTERACTIONS WITH PEOPLE SUSPECTED OF CRIMINAL ACTIVITY;

(E) ALL SEARCHES OF PERSONS AND PROPERTY;

(F) ANY CALL TO A CRIME IN PROGRESS;

(G) INVESTIGATIVE ACTIONS WHERE THERE ARE INTERACTIONS WITH MEMBERS OF THE PUBLIC;

(H) ANY INTERACTION WITH AN EMOTIONALLY DISTURBED PERSON; AND

(I) ANY INSTANCES WHERE OFFICERS FEEL ANY IMMINENT DANGER OR THE NEED TO DOCUMENT THEIR TIME ON DUTY.

The draft policy recently provided to us, Policy 424 "Portable Audio Video Recorders" falls far short of requiring that officers use and actually turn on their body cams, it is far too subjective, leaving it up to an individual officer to decide when it may be "valuable" or "appropriate" to turn it on. It states in part:

"This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview situations.

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.

(c) Self-initiated activity in which a deputy would normally notify Dispatch.

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

....At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable."

This draft policy is replete with the use of the term "should" in places where the words "shall" "will" or "must" are more appropriate. Our recommendation is to hold members of the Sheriff's Office to the standard now required of the State Police and follow no less than the straight forward, unequivocal approach taken by the State Legislature in this new law requiring that State Troopers record specific interactions with the public.

The other issue we have identified in the new draft policy is that it does not provide transparency and contain the clear direction that recordings must be preserved, shall be provided to the public on timely basis and that the recordings cannot be altered. However, it is possible that these provisions are contained in other policies. If so, we would appreciate receiving copies.

Thank you very much for the opportunity to comment.

3 attachments

424.pdf
19K

County Current Bodycam Policy.pdf
1645K

401.pdf
10K

Bill Federice <federicebill@gmail.com> Mon, Jan 18, 2021 at 7:31 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:

http://www4.schohariecounty-ny.gov/government/town-of-conesville/

3 attachments

424.pdf
19K

County Current Bodycam Policy.pdf
1645K

401.pdf
10K

Gmail

Bill Federice <federicebill@gmail.com>

Policing Review Presentation - Invitation to edit

2 messages

Theresa Heary (via Google Slides) <theresa.heary@gmail.com>
Reply-To: Theresa Heary <theresa.heary@gmail.com>
To: federicebill@gmail.com

Mon, Jan 11, 2021 at 6:52 PM

theresa.heary@gmail.com has invited you to edit the following presentation:

Policing Review Presentation

Hi Bill!

Here is the presentation, Apologies for the delay.

Theresa

Open in Slides

Google Slides: Create and edit presentations online.
Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA
You have received this email because theresa.heary@gmail.com shared a presentation with you from Google Slides.

Google

Bill Federice <federicebill@gmail.com>
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

Tue, Jan 12, 2021 at 2:05 PM

[Quoted text hidden]

--
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

IN RESPONSE TO THE NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE; EXECUTIVE ORDER 203, THE COMMITTEE TASKED WITH THE REVIEW OF EXISTING POLICIES REGARDING THE VILLAGE OF COBLESKILL POLICE DEPARTMENT, SUBMITS THE FOLLOWING RECOMMENDATIONS; PROVIDING THEY DO NOT CONFLICT WITH NEW YORK STATE OR FEDERAL LAWS, ARE AS FOLLOWS:

Procedural Justice:

-recommend policies and practices that require transparency and equal treatment for all
-foster, support and promote a police culture that does not tolerate police misbehavior and holds officers accountable
-complainants should have the ability to review results of his/her complaint timely
-timely transparency to include officer disciplinary records and pertinent information consistent with NYS law
-recommend county wide citizen advisory board to meet annually at minimum to discuss policy and citizen concerns
-recommend officers have access to high quality mental health services, and the department normalized such services

Studies Addressing Systemic Racial Bias or Racial Injustice Policing:

-The Governor recently signed legislation (Police Statistics and Transparency Act) requiring courts to compile and publish racial and other demographic data for low-level offenses. This legislation also requires departments to report arrest-related deaths to DCJS. The Chief of Police will review and analyze this data annually at minimum to monitor that there are no trends indicating bias.

Implicit Bias Awareness Training:

-recommend mandatory, adequate and substantial anti bias training annually at minimum

De-escalation Training:

-recommend mandatory adequate and substantial de-escalation training and alternatives to force, annually at minimum

Law Enforcement Assisted Diversion Programs:

-include in "community relations policy"
-recommend continuing and expanding current LEAD program
-recommend continued and enhanced collaboration of services between police, health dept., mental health, and legal services

Restorative Justice Practices:

-include in "community relations policy"
-work with other entities including Catholic Charities to investigate ways to set up processes to mediate disputes, utilize victim impact panels, explore alternatives to incarceration including community service (will require collaboration)

Community Based Outreach and Conflict Resolution:

-include in "community relations policy"
-recommend expanding the LEAD program to support high-risk individuals before a crime is committed
-collaboration with available resources

Problem Oriented Policing:

-include in "community relations policy"
-law enforcement agencies work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community

Hot Spots Policing:

-continue to add more frequent patrols in areas of known criminal activity

Focused Deterrence:

-include in "community relations policy"
-collaborate with community resources for intervention

Crime Prevention Through Environmental Design:

-include in "community relations"

-work with Code Enforcement and property owners to make changes (ie. modify lighting and landscape) in order to help deter criminal activity in a specific area

Violence Prevention and Reduction Interventions:

-include in "community relations policy"
-youth development programs, community mentors, family counseling, support programs, community outreach and violence interruption (collaboration and referrals for services)

Model Policies & Guidelines Promulgated by the NYS Municipal Police Training Council, & Standards Promulgated by the NYS Law Enforcement Accreditation Program:

-make public/place available links on line (current police policy)
-become an accredited agency
-annually review policies with citizen advisory board

Use of Force Policy:

-to be further discussed by the citizen advisory board
-follow NYS guidelines

Gmail

Bill Federice <federicebill@gmail.com>

Village of Cobleskill draft plan

4 messages

mayor@cobleskill.org <mayor@cobleskill.org> Fri, Jan 8, 2021 at 2:03 PM
To: Federicebill <federicebill@gmail.com>, Bruce Baker <bruce.baker@co.schoharie.ny.us>

For your review... we completed our final EO203 meeting last evening and this is the result. Of course others will use various formats. This is the format I chose to present to the Village Board with (believe it or not)full committee consensus. Have a good weekend and stay well.

--
Rebecca Stanton-Terk, Mayor
Village of Cobleskill
378 Mineral Springs Rd
Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978

---

mayor@cobleskill.org <mayor@cobleskill.org> Fri, Jan 8, 2021 at 2:04 PM
To: Federicebill <federicebill@gmail.com>, Bruce Baker <bruce.baker@co.schoharie.ny.us>

helps if I attach it...

--
Rebecca Stanton-Terk, Mayor
Village of Cobleskill
378 Mineral Springs Rd
Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978

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EO 203 plan.docx
14K

Bill Federice <federicebill@gmail.com> Fri, Jan 8, 2021 at 2:56 PM
To: Becky Stanton <mayor@cobleskill.org>

Thanks very much Becky. I'm sure it will be helpful.

[Quoted text hidden]

--
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Bill Federice <federicebill@gmail.com> Sat, Jan 9, 2021 at 9:30 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman

<haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

--------- Forwarded message ---------
From: <mayor@cobleskill.org>
Date: Fri, Jan 8, 2021 at 2:03 PM
Subject: Village of Cobleskill draft plan
To: Federicebill <federicebill@gmail.com>, Bruce Baker <bruce.baker@co.schoharie.ny.us>

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Gmail **Bill Federice <federicebill@gmail.com>**

Rural Awakening should/shall recommendations

3 messages

Theresa Heary <theresa.heary@gmail.com> Thu, Jan 7, 2021 at 4:08 PM
To: federicebill@gmail.com

Hi Bill,

Thank you for your consideration!

Here is our list of "Shoulds' that we would like to see as "Shalls."

We are, as always, open to more conversation.

Much thanks,
Theresa
Injustice anywhere is a threat to justice everywhere.
-Rev. Martin Luther King Jr.

Shall Should.docx
16K

Bill Federice <federicebill@gmail.com> Fri, Jan 8, 2021 at 7:52 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Shall Should.docx
16K

Bruce Baker <bruce.baker@co.schoharie.ny.us> Tue, Jan 12, 2021 at 9:29 AM
To: Bill Federice <federicebill@gmail.com>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards

<pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>
Cc: Zachary Reinhart <zachary.reinhart@co.schoharie.ny.us>, Jeffrey McCoy <jeffrey.mccoy@co.schoharie.ny.us>, Joe Prall <joseph.prall@co.schoharie.ny.us>

Attached are 2 policies pertaining to 203. The first is Policy 401, which pertains to Bias-Based policing. Which we will discuss a bit this afternoon. Understanding the policy is only as effective as the training, which was briefly touched on during the Procedural Justice (1) training and is the specific root of the PJ3 course that we are awaiting from DCJS. The second policy is 424, which is the bodycam policy. You will note that there are some portions in the existing policy that are not in the new policy. THIS IS ONLY because they are procedural in nature and are a supplemental portion of policy manual. The Sheriff has approved policy 401 already and 424 is under his review.

With regards to the "Should/Shall" email previously received by this office, there are portions of the policy in which replacing "should" with "shall" is both reasonable and justified to protect both the citizens (visitors) and the Agency. Such changes are being enacted upon and will be available at the 1/19 meeting.

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2 attachments

401.pdf
10K

424.pdf
19K

Should / Shall

Presented below is actual wording of the Schoharie County Sheriff's Office draft policy manual. Rural Awakening proposes that the uses of the word "should" listed below would better protect the public, deputies, and the Sheriff's Office if the word "shall" was used instead.

300.2.1 Duty to Intercede and Report

"Any deputy 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, intercede to prevent the use of unreasonable force.

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

Using "shall" in the second paragraph consistently prioritizes public safety and the importance of accountability.

300.3.5 Carotid Control Hold

"...[D]ue to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:

...

(b) At all times during the application of the carotid control hold, the response of the individual **should** be monitored. The carotid control hold **should** be discontinued when circumstances indicate that the application no longer reasonably appears necessary."

Using "shall" in these sentences protects the health of the individual and protects the Sheriff's Office from potential legal action.

300.5 Reporting the Use of Force

"Any use of force by a member of this office **shall** be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The deputy **should** articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances."

Understanding the deputy's subjective perception of the circumstances is crucial to assessing the appropriateness of use of force.

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 he/she can be medically assessed. Individuals **should** not be placed on their stomachs for an extended period, as this could impair their ability to breathe."

Just as anyone in physical distress, regardless of their location or situation, must be monitored until assessed, anyone who deputies encounter must be monitored.

300.7 Supervisor Responsibilities

"...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 (Executive Law 840):

...

(c)1. These photographs and/or video **should** be retained until all potential for civil litigation has expired."

Presentation of evidence is a basic right in our judicial system. It is essential therefore that evidence must be preserved.

Gmail Bill Federice <federicebill@gmail.com>

Fwd: Letter to Editor

2 messages

stinson <stinson@midtel.net> Sun, Jan 3, 2021 at 9:25 AM
To: Bill Federice <federicebill@gmail.com>, mayor@cobleskill.org

For your interest, WRS

------ Forwarded Message ------
Subject: Letter to Editor
Date: Sun, 3 Jan 2021 09:23:22 -0500
From:stinson <stinson@midtel.net>
To:TJ <tjournalnews@yahoo.com>

To The Editor

The Times Journal

Concerning Police accountability, citizens should recognize that the equipment a police officer is provided both defines and enables that officer's conduct. In the same way that a workman's assortment of tools can define his approach to a task, a police officer's response to a task might be influenced by what devices hang on his/her equipment belt or are stored in the patrol vehicle.

The recent police brutality protests provide graphic demonstration of this effect. The deployment of the so-called "less Than Lethal" equipment (weapons) and their seemingly unregulated use (criminal misuse) against protesters should cause us to consider what influence deployment of such equipment had on the officers' demeanor. Would those officers have considered aiming tear gas canisters, rubber bullets or concussion grades at protesters' upper body areas, in contradiction of recommended use, if they were not influenced to some degree by the very issuance of the equipment? Of course the designation "Less Than Lethal" has the effect of reducing reluctance to their use in the first place.

Equip an officer with body armor, helmet, taser, 34" baton (club), semi-automatic pistol with 10 round clip, add an imposing black uniform to complete a warrior image, then we should not be surprised to see warrior (violent) behavior. A visit to the Blue Lives Matter Facebook page will provide insight into the warrior mindset.

I began these comments referencing police accountability. I did so because what equipment a community's police officers are issued should be controlled to a significant degree by the citizens of that community. The ongoing effort to write policy and procedure manuals for our local law enforcement agencies must allow for citizen engagement in police equipment decisions. What equipment to be issued, and under what conditions, should be controlled by policy and procedure manuals and those manuals should be subject to community approval.

Wayne Stinson

Summit, NY

Bill Federice <federicebill@gmail.com> Sun, Jan 3, 2021 at 2:47 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

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—

Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Police Transparency Issue

2 messages

stinson <stinson@midtel.net> Thu, Dec 24, 2020 at 12:13 PM
To: mayor@cobleskill.org, Richard Lape <rvilletc@gmail.com>, "federicebill@gmail.com" <federicebill@gmail.com>, "Broomeclerk@midtel.net" <Broomeclerk@midtel.net>, "jeffersontwnsup@gmail.com" <jeffersontwnsup@gmail.com>, "Supr. Vroman" <haroldvroman@aol.com>

NY Police Continue To Combat The Release Of Disciplinary Records

By Beryl Lipton and Jon Campbell, Muckrock. December 23, 2020 | Educate!

https://popularresistance.org/ny-police-continue-to-combat-the-release-of-disciplinary-records/

Bill Federice <federicebill@gmail.com> Sat, Dec 26, 2020 at 9:12 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

[Quoted text hidden]

—
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Fwd: Letter to Editor

2 messages

stinson <stinson@midtel.net> Sun, Dec 20, 2020 at 2:58 PM
To: Bill Federice <federicebill@gmail.com>, mayor@cobleskill.org

Friends, FYI WRS

------- Forwarded Message -------
Subject: Letter to Editor
Date: Sun, 20 Dec 2020 14:52:45 -0500
From:stinson <stinson@midtel.net>
To:TJ <tjournalnews@yahoo.com>

20 December 2020

To the Editor

The Times Journal

The two local law enforcement agencies in Schoharie County, the Sheriff's Department and Cobleskill Village Police, continue their Law Enforcement Review efforts mandated by Governor Cuomo. Through that process we learned that both agencies have contracted with Lexipol Corporation to develop policy and procedure manuals.

Lexipol is a Texas based company founded by a former law enforcement officer and an attorney with the specific purpose of assisting police agencies and municipalities develop policies and procedures which will protect them from liability. It is instructive that the county's Lexipol contract is financed in part by a grant from the county's insurance carrier. We must recognize that Lexipol is working for the municipalities and police agencies, not the citizens of Schoharie County.

Of course it is entirely proper for local government and police agencies to be concerned for litigation exposure and the loss of public funds to satisfy judgments. However, we as citizens must be alert for proposed policies and procedures which would be injurious to the public. A particular policy might protect a police officer or municipality from litigation but in doing so reduces a citizen's ability to challenge police or municipal conduct.

In light of this reality such proposed policy or procedure manuals must be subject to public review. Ideally, adoption of such documents should be conditioned upon public acceptance, perhaps via referendum. Additionally, police union contract provisions, to the extent they restrict a citizen's ability to challenge police/municipal conduct, must also be subject to public acceptance.

Wayne R. Stinson

Summit, NY

Bill Federice <federicebill@gmail.com> Sun, Dec 20, 2020 at 3:44 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>,'Peter Harrison <kingdomnoyze@verizon.net>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

RE: January, 2021 Law sub-committee Executive Order 203 meetings

Richard Lape <richard.lape@co.schoharie.ny.us> Sun, Dec 20, 2020 at 4:17 PM
To: Judith Beeler <judith.beeler@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>, Peggy Hait <peggy.hait@co.schoharie.ny.us>, Peggy Hait <peggyvhh@gmail.com>, Harold Vroman <harold.vroman@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Steven Wilson <steven.wilson@co.schoharie.ny.us>, Fonda Chronis <fonda.chronis@co.schoharie.ny.us>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Denise Minton <mintond@co.schoharie.ny.us>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Sheryl Largeteau <slargeteau@co.schoharie.ny.us>, Carmella Smith <carmella.smith@co.schoharie.ny.us>, Bruce Baker <bruce.baker@co.schoharie.ny.us>, Bonnie Post <bonnie.post@co.schoharie.ny.us>, Donna Becker <donna.becker@dfa.state.ny.us>, Candace Ellis <candacee@ccalbany.org>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Scott Haverly <haverlys@co.schoharie.ny.us>, Gretchen Randazzo <randazzg@co.schoharie.ny.us>

Hello -- the Law sub-committee meetings for January, 2021 (to fulfill Executive Order 203) will be expanded to weekly Tuesday meetings in order to meet the April 1, 2021 deadline for approval by the full BOS and submission of the plan to the Governor's office. The meeting dates and times will be as follows:

Tuesday, January 5th, 5 PM at BOS meeting room (regular date and time for the Law Committee to meet).

Tuesday, January 12th, 3 PM at BOS meeting room.

Tuesday, January 19th, 3 PM at BOS meeting room.

Tuesday, January 26th, 3 PM at BOS meeting room.

This early announcement is sent to allow our participants to schedule ahead of time and also for scheduling our meeting room accommodations -- thank-you and Merry Christmas -- D. Lape.

Gmail

Bill Federice <federicebill@gmail.com>

Jan. 5th v 12th

4 messages

Pat Hults <hultsp@outlook.com> Tue, Dec 15, 2020 at 4:04 PM
To: "federicebill@gmail.com" <federicebill@gmail.com>

You were right, I was watching. Frustrating not to be able to enter the discussion. Can you please clarify the difference in the availability of time for the presentation and discussion between the 5th and 12th? We were planning on no more that 30 minutes to present, wanting to leave time for discussion. Thanks - Pat

Patricia Hults

Bill Federice <federicebill@gmail.com> Tue, Dec 15, 2020 at 8:31 PM
To: Pat Hults <hultsp@outlook.com>

Hi Pat. My point was that I didn't want to see some of the members leave at 6:00 for their monthly committee assignments if you were still in your presentation. In other words, I want to make sure we give your group the respect it deserves after the work that I am sure you folks would be putting into the presentation. But....if you feel an hour is enough time - by all means let's go with January 5th.

Yes, I know it's hard communicating. We will continue to comply with the Governor's orders on social distancing and masks but before January 5th explore other options such as Zoom as a supplement or replacement for in person meetings depending on current regulations from the State.

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Pat Hults <hultsp@outlook.com> Fri, Dec 18, 2020 at 7:05 AM
To: Bill Federice <federicebill@gmail.com>

Hi Bill,
This is to confirm the Jan. 5th date. That's the date both of our presenters will be available. We'll keep it short. It would be wonderful if you have some zoom options for upcoming meetings. I'm a little surprised the county has been able to continue in-person meetings this long, considering the continued and rising Covid cases. Stay safe!

Patricia Hults
[Quoted text hidden]

Bill Federice <federicebill@gmail.com> Fri, Dec 18, 2020 at 1:40 PM
To: Pat Hults <hultsp@outlook.com>

OK. If we don't communicate before then....Merry Christmas.

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Opinions

Thoughts on deadly force

Dear Editor, Members of our group have been attending county meetings regarding compliance with Executive Order 203, the New York State Police Reform and Reinvention Collaborative. We have been impressed by the County Supervisors' Law Committee and the members of the Sheriff's' Office; their approach has been thoughtful and thorough, as they undertake a sincere and in-depth review. However, we were disconcerted to see that in a recent article in the Times-Journal, our position on deadly force was mischaracterized. We have not and would not, ask that the use of deadly force be excluded from the Sheriff's Office policies. We recommend the use of reasonable, proportional and necessary force, with the goal of preserving human lives of all involved (officers, suspects, bystanders). We do recommend that both choke holds and carotid holds be banned. These are both dangerous uses of force that have been misused nationally and have led to the death of unarmed persons. We understand that deadly force is sometimes necessary to protect the lives of both officers and civilians. Our aim is not to outlaw deadly force but make sure that it is only used in the appropriate context.

Rural Awakenings

Gmail Bill Federice <federicebill@gmail.com>

Police equipment issue

3 messages

stinson <stinson@midtel.net> Sun, Dec 13, 2020 at 10:16 AM
To: Richard Lape <rvilletc@gmail.com>, "federicebill@gmail.com" <federicebill@gmail.com>, "Broomeclerk@midtel.net" <Broomeclerk@midtel.net>, "jeffersontwnsup@gmail.com" <jeffersontwnsup@gmail.com>, "Supr. Vroman" <haroldvroman@aol.com>

Military-Grade Weapons Do Not Make Cops Or Cities Safer

By Anne Branigin, The Root.
December 12, 2020
| Educate!

Two new studies delegitimize the 1033 program.

https://popularresistance.org/military-grade-weapons-do-not-make-cops-or-cities-safer/

Bill Federice <federicebill@gmail.com> Sun, Dec 13, 2020 at 10:46 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Wendy Cook <wcook001@luthersem.edu>

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—
Bill Federice
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Bruce Baker <bruce.baker@co.schoharie.ny.us> Sun, Dec 13, 2020 at 2:20 PM
To: Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Peter Harrison <kingdomnoyze@verizon.net>, Wendy Cook <wcook001@luthersem.edu>, Bill Federice <federicebill@gmail.com>

We have no military surplus equipment.

Get Outlook for Android

From: Bill Federice <federicebill@gmail.com>
Sent: Sunday, December 13, 2020 10:46:54 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>; Candace Ellis <candacee@ccalbany.org>; Dick Lape <lapelspc@midtel.net>; Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>; Harold Vroman <haroldvroman@aol.com>; John Leavitt <john.leavitt@co.schoharie.ny.us>; Pastor Ray Richards <pastorray@cagcobleskill.org>; Peggy Hait <jeffersontwnsup@gmail.com>; Ronald Stevens <ronald.stevens@co.schoharie.ny.us>; Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>; Patricia Hults <Hultsp@outlook.com>; Peter Harrison <kingdomnoyze@verizon.net>; Wendy Cook <wcook001@luthersem.edu>
Subject: Fwd: Police equipment issue

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Gmail

Bill Federice <federicebill@gmail.com>

Police Accountability

2 messages

stinson <stinson@midtel.net> Sat, Dec 12, 2020 at 9:30 AM
To: Bill Federice <federicebill@gmail.com>, mayor@cobleskill.org

For the Police Review Committee,

Here's another voice regarding the police reform issue.

John Oliver is best known as a Youtube comedian but this recent video report by him is worth your time. Oliver always provides important insight into an issue he covers.

This video should be viewed by all and anybody involved in the ongoing EO #203 police review.

John Oliver on police reform:

https://www.youtube.com/watch?v=Wf4cea5oObY

Wayne Stinson

Bill Federice <federicebill@gmail.com> Sat, Dec 12, 2020 at 3:00 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>, Wayne Stinson <stinson@midtel.net>, Wendy Cook <wcook001@luthersem.edu>

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--
Bill Federice
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Chairman, Schoharie County Board of Supervisors

607-353-2110

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Gmail **Bill Federice <federicebill@gmail.com>**

Recommended changes to the new Use of Force policies

10 messages

Pat Hults <hultsp@outlook.com> Wed, Dec 9, 2020 at 1:54 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>, Dick Lape <lapelspc@midtel.net>, Paden/Meadows <windmill@midtel.net>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>, Theresa Heary <theresa.heary@gmail.com>, Bobbi Wilding - personal <shelaria@gmail.com>, Reggie Harris <regerino42@gmail.com>, Alyson Montione <montionea@gmail.com>

Attached are changes Rural Awakening suggests to the new Use of Force and related policies. Just a clarification in reaction to the Times Journal article this week. Rural Awakening does not advocate no use of force by police, rather limits on some specific techniques.

Sent from Outlook

5 attachments

suggested_Conducted_Energy_Device.docx
42K

Suggested_Control_Devices.docx
29K

Suggested_Handcuffing_and_Restraints.docx
37K

suggested_Mission_Statement.docx
12K

suggested_Use_of_Force.docx
66K

Bill Federice <federicebill@gmail.com> Thu, Dec 10, 2020 at 6:04 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

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—
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Richard Lape <richard.lape@co.schoharie.ny.us> Sat, Dec 12, 2020 at 11:01 AM
To: Sheryl Largeteau <slargeteau@co.schoharie.ny.us>, Judith Beeler <judith.beeler@co.schoharie.ny.us>, Carmella Smith <carmella.smith@co.schoharie.ny.us>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>

CJ -- if we could have copies made of the attachments for all committee members for the Tuesday, December 15th 3 PM meeting, it would be appreciated -- thanks -- D. Lape.

From: lapelspc@midtel.net <lapelspc@midtel.net>
Sent: Saturday, December 12, 2020 10:50 AM
To: Richard Lape <richard.lape@co.schoharie.ny.us>
Subject: Fwd: Recommended changes to the new Use of Force policies

------ Original Message ------

Subject: Recommended changes to the new Use of Force policies
Date:2020-12-09 13:54
From: Pat Hults <hultsp@outlook.com>
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>, Dick Lape <lapelspc@midtel.net>, Paden/Meadows <windmill@midtel.net>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison < kingdomnoyze@verizon.net>, Theresa Heary <theresa.heary@gmail.com>, Bobbi Wilding - personal <shelaria@gmail.com>, Reggie Harris <regerino42@gmail.com>, Alyson Montione <montionea@gmail.com>

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suggested_Use_of_Force.docx
66K

Bill Federice <federicebill@gmail.com> Sat, Dec 12, 2020 at 2:44 PM
To: Pat Hults <hultsp@outlook.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

Hi Pat. Would you and your group like to present and discuss your recommendations at Tuesday's meeting? I may have a few words at the beginning but for the most part it would be your meeting. Give me a call if you would like to discuss. 607-353-2110.

On Wed, Dec 9, 2020 at 1:54 PM Pat Hults <hultsp@outlook.com> wrote:

Attached are changes Rural Awakening suggests to the new Use of Force and related policies. Just a clarification in reaction to the Times Journal article this week. Rural Awakening does not advocate no use of force by police, rather limits on some specific techniques.

Sent from Outlook

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Pat Hults <hultsp@outlook.com> Sat, Dec 12, 2020 at 3:43 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

I think we'd like to give a presentation, but I'm not sure we can be ready by this Tuesday's meeting. Is there some flexibility with the specific meeting? - Pat

Patricia Hults
[Quoted text hidden]

Bill Federice <federicebill@gmail.com> Sat, Dec 12, 2020 at 8:36 PM
To: Pat Hults <hultsp@outlook.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

Would you be ready if we rescheduled a week later?
[Quoted text hidden]

Pat Hults <hultsp@outlook.com> Sun, Dec 13, 2020 at 10:28 AM
To: Bill Federice <federicebill@gmail.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

Partly the timing has to do with availability of our members. We have one member in a travel quarantine, she'll by out Dec. 24, and others more available after Christmas. How about the Dec. 29th meeting? I bet no one would complain if you skipped this Tuesday's meeting. We do greatly appreciate the opportunity to present a careful, thoughtful take on the issues. - Pat

Patricia Hults
[Quoted text hidden]

Bill Federice <federicebill@gmail.com> Sun, Dec 13, 2020 at 11:10 AM
To: Pat Hults <hultsp@outlook.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

Thanks Pat. We were not planning to have a meeting on the 29th but it looks certain (COVID19 notwithstanding) we will start weekly meetings in January. Could you be ready for January 5th? If not, give me a heads up at least a week ahead of time so I can schedule something else for that date.

No one will tell you what and how to cover the topic. But I will give some advice from my years of doing presentations in an earlier life. Don't overload those present with tons of charts and data, you will lose their attention, no matter how important the subject. Summarize your observations and recommendations on ten to fifteen pages to present to the group. *Talk* in detail to each of your points. Also, anything you produce I can get copied or loaded onto a program for viewing at the meeting. That's strictly up to you.

Lastly, I agree with your COVID19 concerns and was also hoping the Governor would grant a month extension. I will bring it up to his personal representative on the Mohawk Valley Regional COVID19 Control Group which I am a member of.

[Quoted text hidden]

Pat Hults <hultsp@outlook.com> Sun, Dec 13, 2020 at 12:30 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

I need to hear from the members of the group, but I'm certain Jan. 5th will work. I'll let you know ASAP if not. Will you be holding a meeting this Tuesday? If you need any assistance in making the case for a delay for the Governor, you are welcome to quote me, a community member, in favor of the delay. I'm willing to make phone calls, send emails, etc., it that helps.
Have a safe holiday and let's hope for a better 2021.

Patricia Hults
[Quoted text hidden]

Pat Hults <hultsp@outlook.com> Mon, Dec 14, 2020 at 7:54 AM
To: Bill Federice <federicebill@gmail.com>
Cc: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

Yes, Rural Awakening would like to do a presentation on Jan. 5th. Will that meeting be held at 5:00? And will you still be holding a meeting this Tuesday? I looked at the positive test numbers and was shocked to see 20 new cases reported yesterday. Hope you decide to cancel, but I won't be there regardless. Stay safe and let's hope the numbers improve by January. - Pat

[Quoted text hidden]

Gmail

Bill Federice <federicebill@gmail.com>

Rural Awakening's response to new policing policies

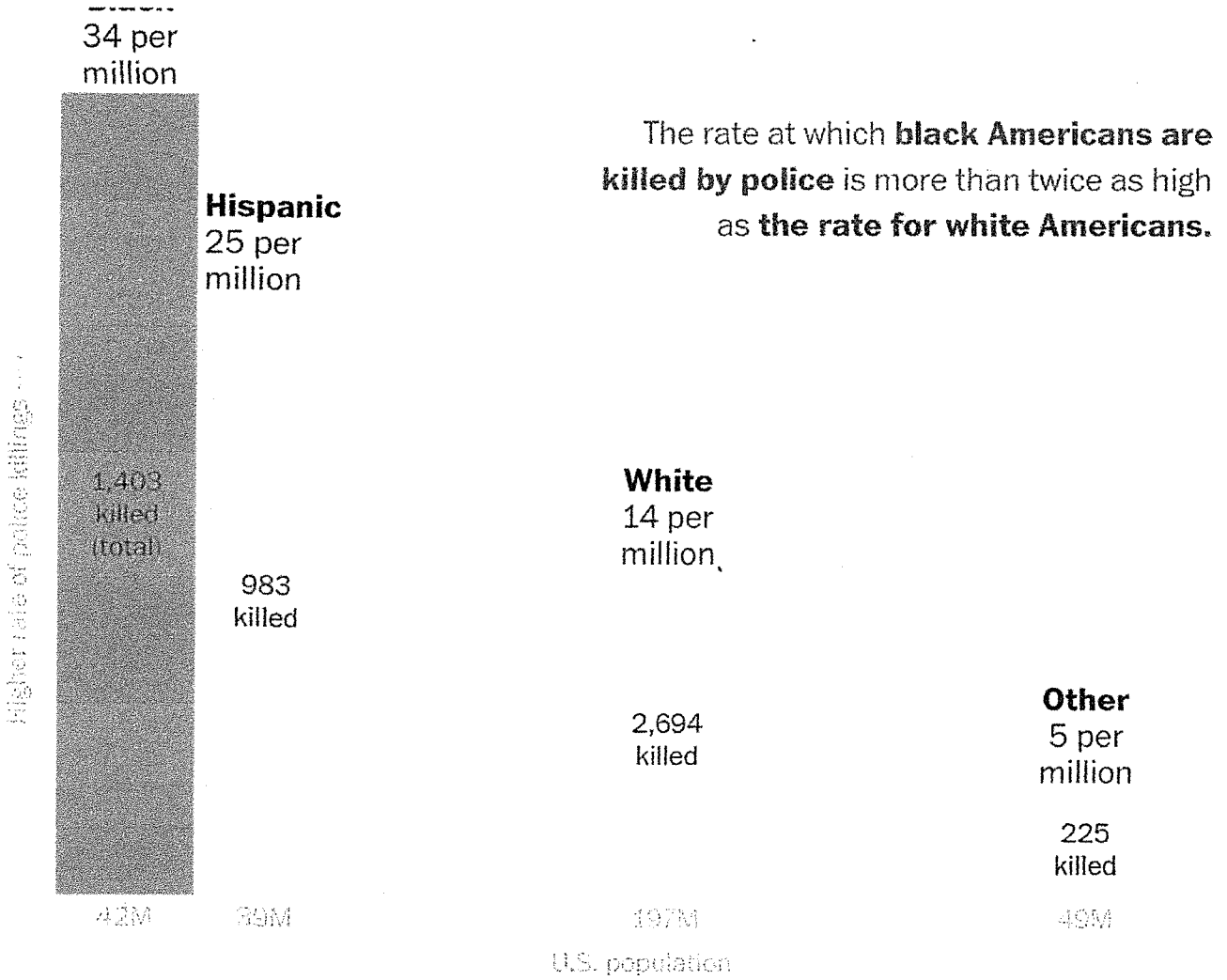
1 message

Pat Hults <hultsp@outlook.com> Wed, Dec 9, 2020 at 1:33 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>, Dick Lape <lapelspc@midtel.net>
Cc: Paden/Meadows <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Wendy Cook <wcook001@luthersem.edu>, Theresa Heary <theresa.heary@gmail.com>, Bobbi Wilding - personal <shelaria@gmail.com>, Alyson Montione <montionea@gmail.com>, Reggie Harris <regerino42@gmail.com>

Attached in a separate email are Rural Awakening's comments and recommendations on the new Use of Force policies proposed by both the county and village police. At the last county meeting the Sheriff's department gave an extensive presentation on the new policies with ample time to explain and advocate for the particular policies, especially those more controversial ones.

Because of the rising COVID-19 case numbers, some members of the public are reluctant to attend the BOS Policing Review meetings. This has the unfortunate effect of muting our concerns and recommendations. Therefore, I am going to restate our position on the use of "reasonable objectiveness."

While the concept is currently supported by case law, it is *not* protecting the members of the public, especially male, black members of the public who are killed at a rate 2.8 times higher than whites. These statistics have been pretty consistently noted by several sources including academic research papers and the Washington Post. The graph below is from the Washington Post. The first column on the left is the rate of Black deaths by police per million.

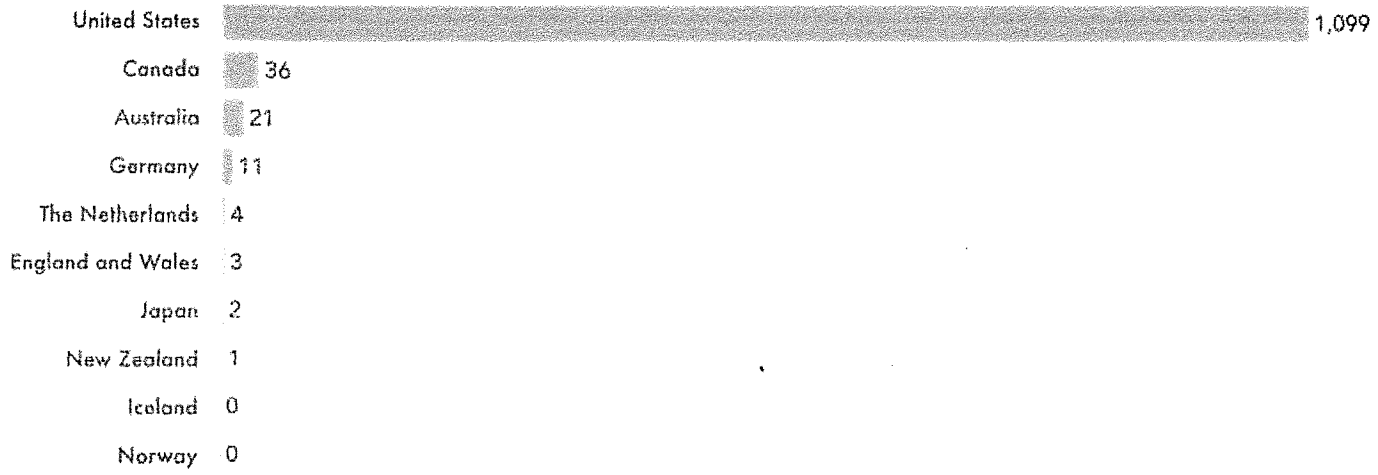


Washington Post, https://www.washingtonpost.com/graphics/investigations/police-shootings-database/

Another eye-opening chart is the number of police killings among wealthy countries of the world

U.S. POLICE KILL FAR MORE CIVILIANS ANNUALLY THAN ANY OTHER WEALTHY COUNTRY

Total number of people killed by law enforcement in the most recent year with available data



PRISON POLICY INITIATIVE

Sources: Data compiled by the Prison Policy Initiative from news sources, government reports, and advocacy groups. Data from the U.S., the Netherlands, England and Wales, and Iceland are from 2019. Data from Australia, Germany, Japan, New Zealand, and Norway are from 2018, and data from Canada are from 2017. For details, see: www.prisonpolicy.org/blog/2020/06/05/policekillings/

https://www.prisonpolicy.org/blog/2020/06/05/policekillings/

"Objective reasonableness" protects bad police. It is very difficult to successfully charge and convict police of crimes resulting from excessive use of force, including murders. Of the fairly steady annual number of about 1,000 civilian deaths by the hands of police officers, only about 1% result in charges and less in convictions. That 1% figure reflects an increase in the last few years, probably the result of public attention and demonstrations. While we hope all police killings are justified, we all know some are not and should have resulted in charges and convictions of the involved police.

Police accountability

99% of killings by police from 2013-2019 have not resulted in officers being charged with a crime



Source: Mapping Police Violence

CNBC

htpps://www.cnbc.com/2020/06/01/george-floyd-death-police-violence-in-the-us-in-4-charts.html

Until there is a standard that protects civilians, as well as police, we will continue to see unjustified and heartbreaking killings.

Sent from Outlook

ObjectiveReasonableness.docx
178K

Conducted Energy Device

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device.

303.2 POLICY

The conducted energy device is used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

303.3 ISSUANCE AND CARRYING CONDUCTED ENERGY DEVICES

Only members who have successfully completed department-approved training may be issued and may carry the conducted energy device.

Conducted energy devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the conducted energy device and cartridges that have been issued by the Department. Uniformed officers who have been issued the conducted energy device shall wear the device in an approved holster. Non-uniformed officers may secure the conducted energy device in the driver's compartment of their vehicles.

Members carrying the conducted energy device shall~~should~~ perform a spark test prior to every shift but not more than once every 24 hour period.

When carried while in uniform, officers shall carry the conducted energy device in a weak-side holster on the side opposite the duty weapon.

(a) All conducted energy devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the conducted energy device.

(c) Officers shall be responsible for ensuring that the issued conducted energy device is properly maintained and in good working order.

(d) Officers should not hold a firearm and the conducted energy device at the same time.

303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the conducted energy device shall~~should~~ precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the conducted energy device may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required, to display the laser in a further attempt to gain compliance prior to the application of the conducted energy device. The aiming laser shall~~should~~ not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the conducted energy device in the related report.

303.5 USE OF THE CONDUCTED ENERGY DEVICE

The discharge of a conducted energy device must follow the guidelines documented in the departmental Use of Force Policy. The conducted energy device has limitations and restrictions requiring consideration before its use. The conducted energy device should only be used when its operator can safely approach the subject within the operational range of the device. Although the conducted energy device is effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

303.5.1 APPLICATION OF THE CONDUCTED ENERGY DEVICE

The conducted energy device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person and is consistent with guidelines in the department Use of Force Policy:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the conducted energy device to apprehend an individual. The conducted energy device shall not be used to psychologically torment, to elicit statements or to punish any individual.

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the conducted energy device on certain individuals should be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals who have been recently sprayed with a flammable chemical agent or who

are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

The use of the drive-stun mode should be limited to pain compliance, supplementing the probe-mode to complete the circuit, [ASK WHAT THIS MEANS] or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

303.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin shall~~should~~ be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the conducted energy device probes to a precise target area, officers shall~~should~~ monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

303.5.4 MULTIPLE APPLICATIONS OF THE CONDUCTED ENERGY DEVICE

Officers shall~~should~~ apply the conducted energy device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Officers shall~~should~~ not intentionally apply more than one conducted energy device at a time against a single individual.

If the first application of the conducted energy device appears to be ineffective in gaining control of an individual, the officer shall~~should~~ evaluate the situation and consider certain factors before additional applications of the conducted energy device, including:

(a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

(b) Whether the probes are making proper contact.

(c) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(d) Whether verbal commands or other options or tactics may be more effective.

303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shallshould take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the conducted energy device. As soon as practicable, officers shall notify a supervisor any time the conducted energy device has been discharged. Whenever practicable, c~~C~~onfetti tags shall~~should~~ be collected and the expended cartridge, along with both probes and wire, shall~~should~~ be submitted into evidence. The cartridge serial number shall~~should~~ be noted and documented on the evidence paperwork. The evidence packaging shall~~should~~ be marked "Biohazard" if the probes penetrated the subject's skin.

303.5.6 DANGEROUS ANIMALS

The conducted energy device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

303.5.7 OFF-DUTY CONSIDERATIONS
Officers are not authorized to carry department conducted energy devices while off-duty.

303.6 DOCUMENTATION
Officers shall document all conducted energy device discharges in the related arrest/crime reports and the conducted energy device report forms. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device, other than for testing purposes, will also be documented on the report form.

303.6.1 CONDUCTED ENERGY DEVICE REPORT FORM
Items that shall be included in the conducted energy device report form are:

(a) The type and brand of conducted energy device and cartridge and cartridge serial number.

(b) Date, time and location of the incident.

(c) Whether any display or use of laser deterred a subject and gained compliance.

(d) The number of conducted energy device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.

(e) The range at which the conducted energy device was used.

(f) The type of mode used (probe or drive-stun).

(g) Location of any probe impact.

(h) Location of contact in drive-stun mode.

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any officers sustained any injuries.

The Chief of Police shall~~should~~ periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Chief of Police shall~~should~~ also conduct audits of data downloads and reconcile conducted energy device report forms with recorded activations.

303.6.2 REPORTS
The officer shall~~should~~ include the following in the arrest/crime report:

(a) Identification of all personnel firing conducted energy devices

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

(e) Any known or suspected drug use, intoxication or other medical problems

303.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate law enforcement or medical personnel should remove conducted energy device probes from a person's body. Used conducted energy device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by conducted energy device probes or who have been subjected to the electric discharge of the device or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories shall~~should~~, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person is suspected of being under the influence of controlled substances and/ or alcohol.

(b) The person may be pregnant.

(c) The person reasonably appears to be in need of medical attention.

(d) The conducted energy device probes are lodged in a sensitive area (e.g., groin, ~~female~~ breast, head, face, neck).

(e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal shall~~should~~ be witnessed by another officer and/or medical personnel and shall be fully documented in related reports and any audio and video recordings.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the conducted energy device (see the Medical Aid and Response Policy).

303.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors shall~~should~~ respond to calls when they reasonably believe there is a likelihood the conducted energy device may be used. A supervisor should respond to all incidents where the conducted energy device was activated.

A supervisor shall~~should~~ review each incident where a person has been exposed to an activation of the conducted energy device. The device's onboard memory shall~~should~~ be downloaded through the data port by a supervisor or Firearms Instructor, and any reports generated from the downloaded data shall be included with the related arrest/crime report. Photographs of probe sites shall~~should~~ be taken and witnesses interviewed.

303.9 TRAINING

Personnel who are authorized to carry the conducted energy device shall be permitted to do so only after successfully completing the initial department-approved training.

A reassessment of an officer's knowledge and/or practical skills may be required at any time if deemed appropriate by the Chief of Police. All training and proficiency for conducted energy devices will be documented in the officer's training files.

Command staff, supervisors and investigators shall~~should~~ receive conducted energy device training as appropriate for the investigations they conduct and review.

Officers who do not carry conducted energy devices shall~~should~~ receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Chief of Police is responsible for ensuring that all members who carry conducted energy devices have received initial training.

Application of conducted energy devices during training could result in injuries and should not be mandatory for certification.

The Chief of Police shall~~should~~ ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the conducted energy device and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the conducted energy device.

Control Devices

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control individuals who are violent or who demonstrate the intent to be violent, the Cobleskill Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. The Chief of Police may also authorize other positions or individual department members to use specific control devices.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only those members who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a person who is violent or who demonstrates the intent to be violent and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply shall~~should~~ precede the use of these devices.

302.4 RESPONSIBILITIES

302.4.1 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor may authorize the use of a control device by selected department members who may not currently be issued or carrying the control device or those in specialized assignments who have successfully completed the required training.

Every control device will be periodically inspected by the Shift Supervisor or the designated instructor for a particular control device. Any deficiencies shall be documented.

302.4.2 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police or authorized designee shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

302.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Firearms Instructor for disposition. Documentation shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin shall~~should~~ not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to him/herself or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignments or at the direction of their supervisors.

302.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects, based on the circumstances. Only the Incident Commander or New York State Police Special Operations Response Team Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary. Tear gas shall not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

When practicable, fire and emergency medical services personnel shall~~should~~ be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation, if needed.

302.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, OC spray may be considered for use to bring under control an individual or group of individuals who are engaging in, or are about to engage in, violent behavior. OC spray shall~~should~~ not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

302.7.1 OC SPRAY

Uniformed members carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field members may carry OC spray as authorized, in accordance with the needs of their assignments or at the direction of their supervisors.

302.7.2 TREATMENT FOR OC EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC shall ~~should~~ be promptly provided with clean water to cleanse the affected areas. Those who complain of further severe effects shall be examined by appropriate medical personnel as soon as is practicable.

Control

302.8 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

302.8.1 DEPLOYMENT AND USE

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of individuals engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

(a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.

(b) The suspect has made credible threats to harm him/herself or others.

(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at officers, other department members and/or other people.

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

302.8.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

(a) Distance and angle to target.

(b) Type of munitions employed.

(c) Type and thickness of subject's clothing.

(d) The subject's proximity to others.

(e) The location of the subject.

(f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device shall~~should~~ precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to

manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the suspect must be weighed against the risk of causing serious injury or death. The head and neck shall~~should~~ not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

302.8.3 SAFETY PROCEDURES

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect shotguns and projectiles at the beginning of each shift to ensure that the shotguns are in proper working order and the projectiles are of the approved type and appear to be free from defects.

When they are not deployed, shotguns will be unloaded and properly and securely stored in police department vehicles or in a secure location within the police department. When deploying a kinetic energy projectile shotgun, officers shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

302.9 TRAINING FOR CONTROL DEVICES

The Chief of Police shall ensure that those members who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the member's training file.

(c) Members who fail to demonstrate proficiency with the control device or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with a control device or knowledge of the Use of Force Policy after remedial training, the member will be restricted from carrying the control device and may be subject to discipline.

302.10 REPORTING USE OF CONTROL DEVICES

Any application of a control device shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

301.2 POLICY

The Cobleskill Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

301.3 USE OF RESTRAINTS

Only members who have successfully completed Cobleskill Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or offense leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration shall ~~should~~ be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

301.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees shall~~should~~ continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers shall~~should~~ ~~continuously~~ weigh the safety interests at hand against the continuing intrusion upon the detainee.

301.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant shall ~~should~~ be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body shall~~should~~ not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

301.3.3 RESTRAINT OF JUVENILES

A juvenile who appears to be under 14 years of age shall ~~should~~ not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

301.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification shall~~should~~ include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

301.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers shall~~should~~ not conclude that in order to avoid risk every person should be handcuffed regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs shall~~should~~ be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility or other secure area.

301.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods shall~~should~~ ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers shall ~~should~~

Handcuffing and
provide

assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods shall~~should~~ not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care shall~~should~~ be obtained. If the person vomits while wearing a spit hood, the spit hood shall~~should~~ be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray shall~~should~~ be thoroughly decontaminated, including hair, head and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood shall~~should~~ be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints shall~~should~~ be monitored as reasonably appears necessary.

301.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines shall~~should~~ be followed:

(a) If practicable, officers shall~~should~~ notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

(c) Once secured, the person shall~~should~~ be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person shall~~should~~ be continually monitored by an officer while in the leg restraint. The officer shall~~should~~ ensure that the person does not roll onto and remain on his/her stomach.

(e) The officer shall~~should~~ look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by emergency medical services, the restrained person shall~~should~~ be accompanied by an officer when requested by medical personnel. The transporting officer shall~~should~~ describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

301.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of restraints other than handcuffs or plastic cuffs shall be documented in the related report.

Officers shall~~should~~ document the following information in reports, as appropriate, when restraints other than handcuffs or plastic cuffs are used on a person:

(a) The factors that led to the decision to use restraints.

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

(d) The amount of time the person was restrained.

(e) How the person was transported and the position of the person during transport.

(f) Observations of the person's behavior and any signs of physiological problems.

(g) Any known or suspected drug use or other medical problems.

301.9 TRAINING

T~~Subject to available resources, t~~he Chief of Police shall~~should~~ ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.

Handcuffing and

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

MISSION STATEMENT, VISION STATEMENT, AND ORGANIZATIONAL VALUES
MISSION STATEMENT

We, the members of the Cobleskill Police Department, are committed to providing ethical, quality and responsive service to the community with pride and professionalism. We are committed to improving the quality of life for those we serve by delivering the highest standard of police services.

VISION STATEMENT

We envision a future where people ~~law-abiding citizens~~ feel safe and take pride and comfort in the quality of life in our community and a future where disorder and criminal activity continues to be vigorously and intelligently pursued. We envision our department as a superior service-oriented organization that incorporates innovative strategies, contemporary technologies, proven community policing philosophies, positive leadership, and efficient and effective use of resources into all organizational decisions.

OUR ORGANIZATIONAL VALUES

Commitment to Service:

We believe our primary duty is to safeguard lives and property, while respecting the human and constitutional rights of all.

Commitment to Community Involvement:

We believe community partnerships are critical elements of our organization. Collaboration, cooperation and communication with our residents ~~citizens~~ and businesses are the framework for successful community-oriented policing.

Commitment to Our Employees:
We believe that our employees are the greatest and most valuable assets of our organization; and that through regular training, education, career development, exemplary leadership, and organizational support, our employees will reach the highest standards of performance and professional satisfaction while serving the needs of our community.

Commitment to Responsibility and Accountability:
We believe that the prudent and effective management of our resources is critical to the future of our organization. We believe transparency to the public of philosophy, policy, and action of the department is critical.

Note: this document should explicity declare the department's intent to guard against implicit racial, gender, sex and other biases in carrying out its duties.

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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 acceptable~~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.

Commented [1]: Add definition of Immediate

Immediate - an action that is present, next in order, and not separated in space or time.

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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 Cobleskill 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.

300.2.1 DUTY TO INTERCEDE 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, intercede 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 shallshould 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 shallshould 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, and will be held accountable should they violate that trust.

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.

TWhile the ultimate objective of every law enforcement encounter is to avoid or minimize injury. Officers should consider retreating or risk being exposed to the possible minor physical injury instead of applying force. 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

When circumstances reasonably permit, officers shall should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

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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.

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 shall~~should~~ consider:

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

(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 CAROTID CONTROL HOLD~~

~~A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:~~

~~(a) At all times during the application of the carotid control hold, the response of the individual shall~~should ~~be monitored. The carotid control hold shall should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.~~

~~(a) Any individual who has had the carotid control hold 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.~~

~~(a) 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 the carotid control hold and whether the individual lost consciousness as a result.~~

~~(a) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.~~

~~The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.~~

~~300.3.6~~300.3.5 STATE RESTRICTIONS ON THE USE OF OTHER 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 is prohibited under NYS law. (Penal Law § 121.13-A) ~~unless deadly physical force is authorized (Exec. Law § 840). [Does state law allow choke holds when deadly force authorized?]~~

~~300.3.7~~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. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not ~~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. Officers are encouraged to use techniques and methods taught by the Cobleskill Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

T~~When reasonable, t~~he officer shall, prior to the use of deadly force, make every reasonable efforts to identify him/ herself as a peace 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 immediate~~imminent~~ threat or immediate ~~imminent~~ risk:

(a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an immediate ~~imminent~~ threat of death or serious bodily injury.

(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 immediate ~~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 ~~shall~~should precede the use of deadly force whenever feasible~~, where feasible~~.

When an imminent, but not immediate, threat or risk exists, officers may use less-than-lethal force. ~~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 involve additional considerations and risks, and are rarely effective.

O~~When feasible, o~~fficers ~~shall~~should take reasonable steps to move out of the path of an

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Use of
approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer shall ~~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 immediate ~~imminent~~ threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers shall~~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 shall~~should~~ articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

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.

(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.

~~(e)~~(f) If choke holds and other such restraints are in the policy as o.k. in cases where deadly force is authorized, they should be included here.

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~~(f)~~(g) Any application of a restraint device other than handcuffs, shackles, or belly chains.

~~(g)~~(h) The individual subjected to the force was rendered unconscious.

~~(h)~~(i) An individual was struck or kicked.

~~(i)~~(j) 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 shall~~should~~ be continuously monitored until he/she can be medically assessed. Individuals shall ~~should~~ not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Use of

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 (sometimes called "excited delirium"), 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 shallshould be considered medical emergencies. Officers who reasonably suspect a medical emergency shallshould request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.6.1 ADDITIONAL STATE REQUIREMENTS

An officer shallshould 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 shallshould document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor shallshould respond to a reported application of force resulting in visible injury, 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 (Executive Law § 840):

(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) Ensure that any injured parties are examined and treated.

(c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. 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 shall should not be summarized or included in any related criminal charges.

2. The fact that a recorded interview was conducted shallshould be documented in a property or other report.
3. The recording of the interview shallshould be distinctly marked for retention until all potential for civil litigation has expired.

(d) 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 shallshould be retained until all potential for civil litigation has expired.

(e) Identify any witnesses not already included in related reports, including any officers present at the incident.

(f) Review and approve all related reports.

1. Supervisors shallshould require that officers who engaged in the use of force submit the appropriate report.

(g) Determine if there is any indication that the individual may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor shall should complete and route a notification of a potential claim through the appropriate channels.

(h) 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.

1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor 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.

300.7.2 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor shallshould ensure that the Chief of Police is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3). See the Administration Policy for additional guidelines.

300.8 REMOVAL FROM LINE DUTY ASSIGNMENT
Generally, whenever a member's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that member will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place a member in an administrative assignment.

300.9 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

OSubject to available resources, officers shallshould receive periodic training on:

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

(b) De-escalation tactics, including alternatives to force.

(c) Applications of use of force and conflict strategies as required by the state Use of Force Model Policy (Executive Law § 840).

300.10 POLICY AVAILABILITY

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

300.11 USE OF FORCE ANALYSIS

At least annually, the Chief of Police or authorized designee shallshould prepare an analysis report on use of force incidents. The report shallshould be submitted to the Chief of Police and made available to the public. The report should not contain the names of officers, suspects, or case numbers, and shallshould 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.

Gmail

Bill Federice <federicebill@gmail.com>

Input re body cams

1 message

Pat Hults <hultsp@outlook.com> Tue, Dec 8, 2020 at 8:45 AM
To: "bruce.baker@co.schoharie.ny.us" <bruce.baker@co.schoharie.ny.us>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>, "federicebill@gmail.com" <federicebill@gmail.com>, "lapelspc@midtel.net" <lapelspc@midtel.net>
Cc: "windmill@midtel.net" <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, "wcook001@luthersem.edu" <wcook001@luthersem.edu>, "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, "montionea@gmail.com" <montionea@gmail.com>

The Rural Awakening's only comment on the current body cam policy is a need for a statement specifying that recordings are available to the public and on a timely basis. Also, there should be disciplinary action should an officer ignore body cam policy, particularly not recording when they should be.

We have comments on the new Use of Force policy presented last week, that will be coming shortly. Thanks and stay safe. - Pat

Patricia Hults

Gmail

Bill Federice <federicebill@gmail.com>

Law Enforcement Review comment

2 messages

stinson <stinson@midtel.net> Sun, Dec 6, 2020 at 7:59 AM
To: "federicebill@gmail.com" <federicebill@gmail.com>

The following will likely be published in Times Journal this week:

1 December 2020

To the Editor

The Times Journal

The Schoharie County Board of Supervisors (BOS) and County Sheriff are two months on into an effort to review law enforcement policies and procedures in compliance with the Governor's Executive Order #203.*

BOS Chairman Bill Federice assembled a Law Enforcement Review Committee (LERC) which includes Sheriff Ron Stevens and some of his staff, BOS Law Oversight Committee members, and representatives of other agencies which interact with law enforcement. There are eleven LERC members only one of which does not directly interact with the law enforcement community and who presumably is expected to represent the community.*

Therein is the flaw of this committee structure. Individuals who are part of the law enforcement community, or regularly interact with that community, have an unavoidable conflict of interest. They are being asked to develop policies and procedures which will result in their activities being more transparent and open to scrutiny, and which could result in their being held accountable for what the public perceives as misconduct. They will be reluctant to do this, but it is precisely what the community, law enforcement and county government need.

More appropriately, the review committee should include a majority of community representatives, not law enforcement associated, and with formalized ability to effect the committee's output. In that way the interests of the community would be better represented. Issues such as transparency and accountability would be more likely to receive the attention they deserve with such a committee structure.

Wayne Stinson

Summit, NY

* Readers can find more information about Executive Order #203 and the Law Enforcement Review Committee at https://www4.schohariecounty-ny.gov/departments/supervisors/law-enforcement-review/

Bill Federice <federicebill@gmail.com> Sun, Dec 6, 2020 at 12:12 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

Obviously, I beg to differ with Mr. Stinson. We have opened our meetings to the public and have engaged in meaningful dialog which of course is part of the record and the public will be part of the discussion for changes. As stated multiple times, the public is welcomed and encouraged to participate and join in the discussion on potential changes. We are committed to that.

However, to state the community should have the final word on any changes, as stated, is contrary to Governors Cuomo's Executive Order 203 which clearly states any recommendations *after public comment and after consideration of such comments, shall be presented to the local legislative body in such political subdivision, which shall ratify or or adopt such plan by local law or resolution, as appropriate, no later than April 1, 2021.....*

[Quoted text hidden]

—
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail **Bill Federice <federicebill@gmail.com>**

Law Enforcement Review comment

2 messages

stinson <stinson@midtel.net> Sun, Dec 6, 2020 at 8:07 AM
To: "federicebill@gmail.com" <federicebill@gmail.com>

The following letter to the editor was not published but I believe the observations could be useful to the committee.

Wayne Stinson

7 October 2020

To the Editor
The Mountain Eagle/Schoharie News

A recent report concerning a meeting of the Schoharie County Law Enforcement Review Committee (LERC) (Times Journal 9/9/2020 "County promises transparency in cop review") Schoharie County Sheriff Ron Stevens is quoted *"I don't watch the news at night because I can't stand the news. We don't live in those communities."* I am assuming the quote is accurate.

I am not sure what Sheriff Stevens' words "We don't live in those communities." mean to him...or us. It might be as simple as we don't have gatherings of angry citizens protesting police abuse. Does he mean we don't have a significant people of color demographic which might protest for some reason? Or, does he believe his Deputies would never do anything wrong? Yes we do, yes we do, and yes they do.

Sheriff Stevens is wrong, Schoharie County is one of "those communities." His deputies display the same damaged-brand-blue-uniform as the police in Kenosha and New Orleans. Certainly there are citizens hereabouts who fear mistreatment by police officers. And, our recent history has shown that the hand of justice falls less heavily, if at all, on police than on ordinary citizens. There is a great deal of repair to be accomplished before the Sheriff, District Attorney, Judicial actors, or the LERC can be exonerated.

The Governor's Executive Order #203 directs localities to review law enforcement policies and practices to "...promote community engagement to foster trust, fairness, and legitimacy..." We must deal honestly with police transparency and accountability issues to accomplish these goals. Failing this we will have accomplished nothing.

Wayne Stinson

Summit, NY

Bill Federice <federicebill@gmail.com> Sun, Dec 6, 2020 at 12:14 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>

Cc: Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

[Quoted text hidden]

—
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

New policies for County Sheriff's Department

1 message

Pat Hults <hultsp@outlook.com> Thu, Dec 3, 2020 at 1:13 PM
To: "bruce.baker@co.schoharie.ny.us" <bruce.baker@co.schoharie.ny.us>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>, "federicebill@gmail.com" <federicebill@gmail.com>, "lapelspc@midtel.net" <lapelspc@midtel.net>, "windmill@midtel.net" <windmill@midtel.net>, "wcook001@luthersem.edu" <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>, "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, "regerino42@gmail.com" <regerino42@gmail.com>

We found the presentation on the new policy covering use of force very interesting and appreciate the detailed discussion. In order to give more thoughtful input, we'd a like a copy of the policy, unless it is identical to the Village's new policy, which we do have already. It's very hard to react to an oral presentation, memory is a slippery tool. Thank you.

Patricia Hults

Gmail

Bill Federice <federicebill@gmail.com>

Re: 7th Sub-committee informational meeting Dec. 15th

1 message

Richard Lape <richard.lape@co.schoharie.ny.us> Wed, Dec 2, 2020 at 10:58 AM
To: Judith Beeler <judith.beeler@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>, Peggy Hait <peggy.hait@co.schoharie.ny.us>, Peggy Hait <peggyvhh@gmail.com>, Harold Vroman <harold.vroman@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Steven Wilson <steven.wilson@co.schoharie.ny.us>, Fonda Chronis <fonda.chronis@co.schoharie.ny.us>, Susan Mallery <susan.mallery@co.schoharie.ny.us>, Suzanne Graulich <suzanne.graulich@co.schoharie.ny.us>, Denise Minton <mintond@co.schoharie.ny.us>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Sheryl Largeteau <slargeteau@co.schoharie.ny.us>, Carmella Smith <carmella.smith@co.schoharie.ny.us>, Bruce Baker <bruce.baker@co.schoharie.ny.us>, Bonnie Post <bonnie.post@co.schoharie.ny.us>, Donna Becker <donna.becker@dfa.state.ny.us>, Candace Ellis <candacee@ccalbany.org>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Scott Haverly <haverlys@co.schoharie.ny.us>, Gretchen Randazzo <randazzg@co.schoharie.ny.us>

The 7th Law sub-committee presentation (to fulfill Executive Order 203) with Sheriff Stevens and staff will take place on Tuesday, December 15th at 3 PM at the BOS meeting room -- thanks -- D. Lape.

Gmail **Bill Federice <federicebill@gmail.com>**

Attendance at the Tuesday Policing Review Committee

7 messages

Pat Hults <hultsp@outlook.com> Mon, Nov 30, 2020 at 6:52 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Wendy Cook <wcook001@luthersem.edu>, "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "windmill@midtel.net" <windmill@midtel.net>, "shelaria@gmail.com" <shelaria@gmail.com>, Peter Harrison <kingdomnoyze@verizon.net>, "regerino42@gmail.com" <regerino42@gmail.com>, "montionea@gmail.com" <montionea@gmail.com>

Hello Mr. Federice,
Neither Wendy, Debbi nor I will be attending tomorrow's meeting due to Covid concerns. As you know, we have been very faithful in our presence and still very much want to have input into the process. You've received our general recommendations. We would like an opportunity to comment on the specific policies when they are developed. We are happy the Cobleskill Police has made their policies available and assume you will also.
We will be listening to the meeting via FaceBook, but as you know, that does not offer an avenue for input. We hope the Covid numbers improve before the next meeting, but urge you to consider methods to allow remote participation.
And by the way, I heard the recent policing workshop was very thoughtful, thought provoking, and well worth the time. It's very heartening to hear that and a big thank you to the County Police for offering that training not only to their staff, but to the wider community.
Stay safe! - Pat Hults

Patricia Hults

On Nov 29, 2020, at 9:50 AM, Bill Federice <federicebill@gmail.com> wrote:

-------- Forwarded message ---------
From: **Pat Hults** <hultsp@outlook.com>
Date: Fri, Nov 27, 2020 at 9:00 AM
Subject: Recommendations from Rural Awakening
To: federicebill@gmail.com <federicebill@gmail.com>, ronald.stevens@co.schoharie.ny.us <ronald.stevens@co.schoharie.ny.us>
Cc: theresa.heary@gmail.com <theresa.heary@gmail.com>, windmill@midtel.net <windmill@midtel.net>, wcook001@luthersem.edu <wcook001@luthersem.edu>, **Peter Harrison** <kingdomnoyze@verizon.net>, shelaria@gmail.com <shelaria@gmail.com>, regerino42@gmail.com <regerino42@gmail.com>, montionea@gmail.com <montionea@gmail.com>

Hello Mr. Federice and Chief Stevens,
Attached are recommendations re policing and policing policies from the Rural Awakening Committee on Policing.
We wanted to send out recommendations to all police departments in the county, so we recognize you have already implemented some of these.
We also want to state how much respect we hold for the county police department and the innovative and ahead of the curve work you have already done. And we appreciate your cooperative attitude that allows us to work together to improve policing in our county.

Patricia Hults
Hultsp@outlook.com
518-441-2717

sent from Outlook

–
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

<Policing Recommendations-County_Nov25.docx>
<Appendix_A_8cantwaitpolicy.docx>
<Appendix_B_Compare Cities.docx>

Bill Federice <federicebill@gmail.com> Mon, Nov 30, 2020 at 8:35 PM
To: Pat Hults <hultsp@outlook.com>

Hi Pat, I truly understand your concerns about COVID19. Please understand, I am following the law and guidance for COVID19. I am reluctant to mandate more stringent measures than the science from the professionals dictate. If the law and/or guidance changes, rest assured I will insist we follow it.

We have come to look forward to you attending and sharing yours and your friends thoughts. Please follow the meeting tomorrow on Schopeg or the County website. I think we have greatly improved the early technical glitches and it is much improved for following along. Perhaps you may wish to share thoughts on the meeting which of course I will share with all and post it on the county website.

[Quoted text hidden]

Pat Hults <hultsp@outlook.com> Tue, Dec 1, 2020 at 6:47 AM
To: Bill Federice <federicebill@gmail.com>

Thank you for your kind words! Rest assured, we will be listening to the meeting. And I understand you are doing your best to make the meeting safe. I just don't feel any gathering with that many people is safe at this time for me and my older husband. Hopefully the spike will subside and we'll be back. It sure is hard trying to practice open and inclusive governance in the middle of a pandemic. - Pat

Patricia Hults
[Quoted text hidden]

Pat Hults <hultsp@outlook.com> Tue, Dec 1, 2020 at 7:15 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Cc: "federicebill@gmail.com" <federicebill@gmail.com>, "lapelspc@midtel.net" <lapelspc@midtel.net>, "windmill@midtel.net" <windmill@midtel.net>, "wcook001@luthersem.edu" <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>, "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, "montionea@gmail.com" <montionea@gmail.com>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>

Oh dear, this is probably THE meeting we would want to be at. Please send one copy via email, so we can have an electronic copy and I can come and pick up paper copies, just give me a good time and place to do that.
We can give specific feedback once we have had a chance to read your documents. Perhaps a special zoom meeting could be scheduled to discuss the policy. We certainly will give written feedback. I do suggest you build in time between when the documents are available and when they are reviewed at a meeting, or schedule time at a subsequent meeting for feedback. It really does inhibit getting thoughtful feedback from the community if the community hasn't seen the document before giving feedback. And Covid makes everything a whole lot harder.
Thank you for the heads up and stay safe.

Patricia Hults

On Nov 30, 2020, at 9:10 PM, Bruce Baker <bruce.baker@co.schoharie.ny.us> wrote:

Good evening-
We will be presenting the proposed policy in its entirety tomorrow evening with the policy being displayed so that Schopeg can televise it for all to see. We have "packets" put together with supporting information and laws as well as references for the community to review. If you can send me addresses I can mail those to you all that do not attend.I can attempt to email them, but having copied them already it would be a waste of paper and ink.
I have seen Cobleskill's policy and it is almost identical to our own. We will also look at the comparisons with useofforceproject and 8cantwait. I think you will see that the policy encompasses a vast majority of the concerns and is within the scope of the law, court decision and the integrity the community deserves.
The next meeting we will be focused on body cameras. I will include the current policy in the packet, and the new policy will (fingers crossed) be ready by that meeting. And we will again go over it line by line.
We will try to announce the topics specifically moving forward, and request any insight, or questions/concerns be sent by the Tuesday prior to the meeting so we can research and develop changes/supported answers for the group. It is challenging to sort through multiple policies or layers in the current format.
Stay well.

Get Outlook for Android

From: Pat Hults <hultsp@outlook.com>
Sent: Monday, November 30, 2020 6:52:59 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>; Candace Ellis <candacee@ccalbany.org>; Dick Lape <lapelspc@midtel.net>; Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>; Harold Vroman <haroldvroman@aol.com>; John Leavitt <john.leavitt@co.schoharie.ny.us>; Pastor Ray Richards <pastorray@cagcobleskill.org>; Peggy Hait <jeffersontwnsup@gmail.com>; Ronald Stevens <ronald.stevens@co.schoharie.ny.us>; Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>; Wendy Cook <wcook001@luthersem.edu>; theresa.heary@gmail.com <theresa.heary@gmail.com>; windmill@midtel.net <windmill@midtel.net>; shelaria@gmail.com <shelaria@gmail.com>; Peter Harrison <kingdomnoyze@verizon.net>; regerino42@gmail.com <regerino42@gmail.com>; montionea@gmail.com <montionea@gmail.com>
Subject: Attendance at the Tuesday Policing Review Committee

[Quoted text hidden]

Bruce Baker <bruce.baker@co.schoharie.ny.us> Tue, Dec 1, 2020 at 9:03 AM
To: Bill Federice <federicebill@gmail.com>, Dick Lape <lapelspc@midtel.net>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>
Cc: Sheryl Largeteau <slargeteau@co.schoharie.ny.us>

I sent this to Pat Hults last evening following her email. I will be sending Sheryl the documents as well. It's a lot of documentation, but none of it is "top secret", and it pertains to our new policy, and the laws and court rulings backing the policy.

From: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Sent: Monday, November 30, 2020 9:10 PM
To: Pat Hults <hultsp@outlook.com>
Subject: Re: Attendance at the Tuesday Policing Review Committee

Good evening-

We will be presenting the proposed policy in its entirety tomorrow evening with the policy being displayed so that Schopeg can televise it for all to see. We have "packets" put together with supporting information and laws as well as references for the community to review. If you can send me addresses I can mail those to you all that do not attend.I can attempt to email them, but having copied them already it would be a waste of paper and ink.

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Stay well.

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From: Pat Hults <hultsp@outlook.com>
Sent: Monday, November 30, 2020 6:52:59 PM
To: Bill Federice <federicebill@gmail.com>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>; Candace Ellis <candacee@ccalbany.org>; Dick Lape <lapelspc@midtel.net>; Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>; Harold Vroman <haroldvroman@aol.com>; John Leavitt <john.leavitt@co.schoharie.ny.us>; Pastor Ray Richards <pastorray@cagcobleskill.org>; Peggy Hait <jeffersontwnsup@gmail.com>; Ronald Stevens <ronald.stevens@co.schoharie.ny.us>; Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>; Wendy Cook <wcook001@luthersem.edu>; theresa.heary@gmail.com <theresa.heary@gmail.com>; windmill@midtel.net <windmill@midtel.net>; shelaria@gmail.com <shelaria@gmail.com>; Peter Harrison <kingdomnoyze@verizon.net>; regerino42@gmail.com <regerino42@gmail.com>; montionea@gmail.com <montionea@gmail.com>
Subject: Attendance at the Tuesday Policing Review Committee

Hello Mr. Federice,

[Quoted text hidden]

Bruce Baker <bruce.baker@co.schoharie.ny.us> Tue, Dec 1, 2020 at 10:30 AM

To: Pat Hults <hultsp@outlook.com>, Sheryl Largeteau <slargeteau@co.schoharie.ny.us>
Cc: Bill Federice <federicebill@gmail.com>, "lapelspc@midtel.net" <lapelspc@midtel.net>, "windmill@midtel.net" <windmill@midtel.net>, "wcook001@luthersem.edu" <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>, "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, "montionea@gmail.com" <montionea@gmail.com>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>

Good morning-

Attached are several scans of the information the Sheriff's Office is using to formulate the pending use of force policy (300). The information contained in the email will be discussed this evening and will be sighted throughout the new policy.

I have also attached a link to the current DCJS training manual for Use of Force. The manual is 200 plus pages long, and about half of that is case law pertaining to use of force and the process used in NYS.

There is also an email from DCJS in response to a question I posed about the Use of Force Continuum that the group is inquiring about. In that response, from the Sr. Trainer and individual charged with the development of curriculum, case law is cited and the States "objective reasonableness" stance is clearly articulated.

The new policy encompasses all of the current state and federal mandates and laws, and in many cases exceeds the "model policy" attached.

I have also included the current Bodycam policy that will be discussed at the next meeting. If you could direct any questions or concerns to us at least one week prior to the meting pertaining to bodycams that would be appreciated.

I apologize most of the scans are upside down. To correct this, right click and rotate clockwise 2x to read them on your screen.

https://www.criminaljustice.ny.gov/ops/training/other/DCJS%20Use%20of%20Force%20In-Service%20Training%20-%20Storyline%20output/story_content/external_files/3B%20-%20Use%20of%20Physical%20Force%20and%20Deadly%20Physical%20Force.pdf

[Quoted text hidden]

10 attachments

- **2020 Model UOF Policy.pdf** 3190K
- **NYS Article 35.pdf** 3142K
- **NYCRR 6058.pdf** 274K
- **DCJS email.pdf** 1562K
- **Current UOF Policy.pdf** 1468K
- **Current Bodycam Policy.pdf** 1641K
- **NYS Ex 840.pdf** 2209K
- **PL 121.13.pdf** 237K
- **Pres Choke Ban.pdf** 1069K

UOF Reporting Memo.pdf
671K

Richard Lape <richard.lape@co.schoharie.ny.us> Tue, Dec 1, 2020 at 1:12 PM
To: Sheryl Largeteau <slargeteau@co.schoharie.ny.us>, Judith Beeler <judith.beeler@co.schoharie.ny.us>, Carmella Smith <carmella.smith@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>

Please make me copies of the attached documents so I can have for this afternoon's 5 PM Law Committee meeting -- thanks -- D. Lape.

From: lapelspc@midtel.net <lapelspc@midtel.net>
Sent: Tuesday, December 1, 2020 12:55 PM
To: Richard Lape <richard.lape@co.schoharie.ny.us>
Subject: Fwd: RE: Attendance at the Tuesday Policing Review Committee

------ Original Message ------

Subject:RE: Attendance at the Tuesday Policing Review Committee
Date:2020-12-01 10:30
From: Bruce Baker <bruce.baker@co.schoharie.ny.us>
To: Pat Hults <hultsp@outlook.com>, **Sheryl Largeteau** <slargeteau@co.schoharie.ny.us>
Cc: Bill Federice <federicebill@gmail.com>, "lapelspc@midtel.net" <lapelspc@midtel.net>, "windmill@midtel.net" <windmill@midtel.net>, "wcook001@luthersem.edu" <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>, "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>, "montionea@gmail.com" <montionea@gmail.com>, Ronald Stevens <ronald.stevens@co.schoharie.ny.us>

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Current UOF Policy.pdf
1468K

Current Bodycam Policy.pdf
1641K

NYS Ex 840.pdf
2209K

PL 121.13.pdf
237K

Pres Choke Ban.pdf
1069K

Bruce Baker

From: [redacted](DCJS) [redacted]@dcjs.ny.gov>
Sent: Monday, November 30, 2020 9:42 AM
To: [redacted](DCJS); Bruce Baker
Subject: RE: Use of Force Question

Hi Bruce,

Thanks for reaching out. We stopped using the continuum as a training aid a few years ago with the adoption of the new *Use of Physical Force and Deadly Physical Force* lesson plan in the Basic Course for Police Officers which was required to be taught beginning in 2018. If you recall, previously the section was much shorter and essentially consisted of a restatement of Article 35. We determined that this was the wrong approach for several reasons, not the least of which is that Article 35 is a defense to criminal liability and not a decision-making tool for police officers and the fact that Article 35 excuses conduct that would clearly be unconstitutional. The continuum was actually in the Defensive Tactics program, but we dropped it there too.

Your reference to the continuum as a "standard" illustrates one of the problems with the continuum. Use of force use of force continuums were developed as *training tools* – many before the current controlling case law was even decided. Prior to the effective use of 42 U.S.C. §1983 to address police use of excessive force in the 70's & 80's, agencies were left to train officers on use of force using state justification statutes like Article 35. Many states didn't (and still don't) have similar statues and the current case law hadn't yet been decided. What was seen as controlling was the *Glick* decision which, relying on a test devised in 1952(!), was widely interpreted to require that a plaintiff claiming excessive force show that an officer acted with malice in applying force "for the purpose of causing harm." Since the constitutional standard could not be trained to (how do you train cops not to act sadistically or maliciously?), agencies devised use of force continuums to assist officers in understanding what was expected of them. Again, during this time, the case law was not instructive, because the substantive due process analysis that existed provide no guidance to officers. So LAPD came up with their thermometer style and other agencies came up with pyramids, step-ladders, and eventually circular shapes.

In 1989, the United States Supreme Court, in a 9-0 decision, declared that use of force by law enforcement officers was a question not of the 14th Amendment's Due Process clause, but of the 4th Amendment's protection against unreasonable searches and seizures. In doing so, they made the question one of *objective reasonableness* and removed the requirement that a plaintiff show that an officer's use of force "shocks the conscience." Additionally, they declared that this standard required a careful balancing of the rights of the individual with the legitimate interest of government and required an analysis of the "totality of the circumstances" of the situation. They also cautioned that the standard was not capable of "precise definition or mechanical application." But law enforcement already had their continuums and law enforcement trainers were already training with them, so police training went largely unchanged.

But the standard *had* changed. And here's where I want to stress that continuums were never a standard... they were a training tool to be used in the *absence* of a workable standard, which is what we had before under the hodgepodge of state laws and the substantive due process standard under the constitution. But 31 years ago, SCOTUS gave us a standard that is workable and is trainable and takes into account the rights of citizens and balances them with the legitimate interest of government, again in a unanimous Court decision. And the courts – SCOTUS and the lower courts – kept giving them to us. We've got decision after decision that

can be used to training police officers in the lawful use of force. Of course, there are policy provisions that an agency may choose to enact that are not necessarily constitutionally unreasonable... shooting at moving vehicles or banning of neck restraints. There's nothing preventing an agency from adopting those provisions within policy and training to them.

Continuums are not a standard but have become to be viewed as such; they are the attempt at a mechanical application that SCOTUS warned us about. No matter how complex they become or what shape they take, they cannot allow for a consideration of the totality of the circumstances which is what's required by the constitution. They don't, for instance, tell an officer that a 35 year old man with a baseball bat is not the same as a 10 year old armed with one or that a Taser on a fire escape is a different amount of force than a Taser in the grass. They don't differentiate between closed fist strikes to a person who is against a wall vs a person who is not. They can't account for the relevance of the number of officers or suspects or the size, age, or physical condition of those suspects. They can't account for mental condition, known physical abilities, or known violent history of a suspect. All of these things (and more) are required to be considered by the constitution.

One final critique of continuums (but I have more)... the argument that a color-coded chart can be used to help an officer make a decision is laughable to anyone who's ever made a decision under time compressed, rapidly evolving, and uncertain circumstances – the very definition of the police decision-making environment. That's simply not how human beings make decisions and that rational decision-making model has been rejected by those that study decision-making of the type engaged in by police officers. If you'd like to talk further, I'd be happy to. Additionally, I might suggest keeping an eye out for our 2-day Use of Force Refresher course where we going into the constitutional standard in great detail and discuss methods to train it too. There are none currently scheduled, but that should change soon!

Best,

[redacted]

--

[redacted]
Senior Training Technician - Police, Office of Public Safety

NYS Division of Criminal Justice Services
80 South Swan Street
Albany, New York 12210
(518) 457-4917 | (518) 457-0145 | [redacted]@dcjs.ny.gov
http://www.criminaljustice.ny.gov/

P.S. - Here's a webinar that Daigle Law Group recently conducted on use of force continuums: https://dlglearningcenter.com/free-webinar-use-of-force-continuum/

From: [redacted] (DCJS) <[redacted]@dcjs.ny.gov>
Sent: Friday, November 27, 2020 10:48 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Cc: [redacted] (DCJS) <[redacted]@dcjs.ny.gov>
Subject: RE: Use of Force Question

Bruce,

I am copying [redacted] in my response, as he is best to answer the questions regarding the continuum. I have attached a copy of the MPTC model policy for your review in case you have not had a chance to review it. It may help with some of your questions until [redacted] is able to respond.

[redacted] will get back to you early next week.

Thank you,

[redacted]
Associate Training Technician (Police)
Office of Public Safety

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, NY 12210
(518) 485[redacted] F(518) 457-0145|[redacted]ny.gov

From: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Sent: Friday, November 27, 2020 10:39 AM
To: [redacted]@dcjs.ny.gov>
Subject: Use of Force Question

Good morning-
As part of the Governors reform order, I have been assigned to the Sheriff's Office task force. As such, our community representatives have been pursuing input with regards to our use of force policy. They frequently sight Campaign Zero and similar groups that seek a use of force continuum rather than NYS's objective reasonableness approach. As such, we have tried to explain the fact that NYS has determined the standard and as such trains officers to that standard.
I am wondering if you could possibly tell me 1) When did NYS discontinue following the continuum standard? And 2) is there a specific document (outside of Graham v. Connor, or the training manual that would indicate the NYS reasoning?
We have completed our newest policy in accordance with the 2019/2020 legal updates and wish to roll it out, however we want to ensure the community we are not making an arbitrary decision to overlook the continuum ideal.
Any help would be greatly appreciated. Thank you

Investigator Bruce Baker
Schoharie County Sheriff's Office
157 Steadman Way
Howes Cave, N.Y. 12092
Desk 518.295.2209.
Dispatch 518.295.8114

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WESTLAW New York Codes, Rules and Regulations

9 CRR-NY 6058.3
NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 9. EXECUTIVE DEPARTMENT
SUBTITLE U. DIVISION OF CRIMINAL JUSTICE SERVICES
CHAPTER II. IDENTIFICATION AND INFORMATIONAL SERVICES
PART 6058. USE OF FORCE DATA COLLECTION, ANALYSIS AND REPORTING

9 CRR-NY 6058.3
9 CRR-NY 6058.3

6058.3 Employer reporting requirements.

(a) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any instance or occurrence where a police or peace officer employed by it employs use of force.

(b) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, with respect to each use of force event reported, submit or cause to be submitted the following:

(1) the type of use of force;

(2) the date of the event;

(3) village, town, or city, and county location of the event;

(4) the law enforcement agencies involved;

(5) a description of the circumstances of the event;

(6) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons engaging in the use of force; and

(7) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

(c) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any additional information the commissioner may require the employer to report, including, but not limited to, use of force events and incident information, subject information, and officer information related to each event as required by the FBI in coordination with the FBI's Uniform Crime Reporting (UCR) Program.

9 CRR-NY 6058.3
Current through April 15, 2020

END OF DOCUMENT

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New York Laws

New York State Law

Penal Law

Consolidated Laws of New York's Penal code

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Article 35 - NY Penal Law

NY Laws › Penal Law › Part 1 › Title C › Article 35

DEFENSE OF JUSTIFICATION

Section	Description
35.00	Justification; a defense.
35.05	Justification; generally.
35.10	Justification; use of physical force generally.
35.15	Justification; use of physical force in defense of a person.
35.20	Justification; use of physical force in defense of premises and in defense of a person in the course of burglary.
35.25	Justification; use of physical force to prevent or terminate larceny or criminal mischief.
35.27	Justification; use of physical force in resisting arrest prohibited.

Section	Description
35.30	Justification; use of physical force in making an arrest or in preventing an escape.

S 35.00 Justification; a defense.

In any prosecution for an offense, justification, as defined in sections 35.05 through 35.30, is a defense.

S 35.05 Justification; generally.

Unless otherwise limited by the ensuing provisions of this article defining justifiable use of physical force, conduct which would otherwise constitute an offense is justifiable and not criminal when:

1. Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his official powers, duties or functions; or

2. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue. The necessity and justifiability of such conduct may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this subdivision is offered by the defendant, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a defense.

S 35.10 Justification; use of physical force generally.

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent, guardian or other person entrusted with the care and

supervision of a person under the age of twenty-one or an incompetent person, and a teacher or other person entrusted with the care and supervision of a person under the age of twenty-one for a special purpose, may use physical force, but not deadly physical force, upon such person when and to the extent that he reasonably believes it necessary to maintain discipline or to promote the welfare of such person.

2. A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use such physical force as is authorized by the correction law.

3. A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use physical force when and to the extent that he reasonably believes it necessary to maintain order, but he may use deadly physical force only when he reasonably believes it necessary to prevent death or serious physical injury.

4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon such person to the extent that he reasonably believes it necessary to thwart such result.

5. A duly licensed physician, or a person acting under a physician's direction, may use physical force for the purpose of administering a recognized form of treatment which he or she reasonably believes to be adapted to promoting the physical or mental health of the patient if (a) the treatment is administered with the consent of the patient or, if the patient is under the age of eighteen years or an incompetent person, with the consent of the parent, guardian or other person entrusted with the patient's care and supervision, or (b) the treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

6. A person may, pursuant to the ensuing provisions of this article, use physical force upon another person in self-defense or defense of a third person, or in defense of premises, or in order to prevent larceny of or criminal mischief to property, or in order to effect an arrest or prevent an escape from custody. Whenever a person is authorized by any

such provision to use deadly physical force in any given circumstance, nothing contained in any other such provision may be deemed to negate or qualify such authorization.

S 35.15 Justification; use of physical force in defense of a person.

1. A person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless:

(a) The latter's conduct was provoked by the actor with intent to cause physical injury to another person; or

(b) The actor was the initial aggressor; except that in such case the use of physical force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force; or

(c) The physical force involved is the product of a combat by agreement not specifically authorized by law.

2. A person may not use deadly physical force upon another person under circumstances specified in subdivision one unless:

(a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is:

(i) in his or her dwelling and not the initial aggressor; or

(ii) a police officer or peace officer or a person assisting a police officer or a peace officer at the latter`s direction, acting pursuant to section 35.30; or

(b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible criminal sexual act or robbery; or

(c) He or she reasonably believes that such other person is committing

or attempting to commit a burglary, and the circumstances are such that the use of deadly physical force is authorized by subdivision three of section 35.20.

S 35.20 Justification; use of physical force in defense of premises and in defense of a person in the course of burglary.

1. Any person may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a crime involving damage to premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force if he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of arson.

2. A person in possession or control of any premises, or a person licensed or privileged to be thereon or therein, may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a criminal trespass upon such premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force in order to prevent or terminate the commission or attempted commission of arson, as prescribed in subdivision one, or in the course of a burglary or attempted burglary, as prescribed in subdivision three.

3. A person in possession or control of, or licensed or privileged to be in, a dwelling or an occupied building, who reasonably believes that another person is committing or attempting to commit a burglary of such dwelling or building, may use deadly physical force upon such other person when he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of such burglary.

4. As used in this section, the following terms have the following meanings:

(a) The terms "premises," "building" and "dwelling" have the meanings prescribed in section 140.00;

(b) Persons "licensed or privileged" to be in buildings or upon other premises include, but are not limited to:

(i) police officers or peace officers acting in the performance of their duties; and

(ii) security personnel or employees of nuclear powered electric generating facilities located within the state who are employed as part of any security plan approved by the federal operating license agencies acting in the performance of their duties at such generating facilities. For purposes of this subparagraph, the term "nuclear powered electric generating facility" shall mean a facility that generates electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located and the safety and security zones as defined under federal regulations.

S 35.25 Justification; use of physical force to prevent or terminate larceny or criminal mischief.

A person may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of larceny or of criminal mischief with respect to property other than premises.

S 35.27 Justification; use of physical force in resisting arrest prohibited.

A person may not use physical force to resist an arrest, whether authorized or unauthorized, which is being effected or attempted by a police officer or peace officer when it would reasonably appear that the latter is a police officer or peace officer.

S 35.30 Justification; use of physical force in making an arrest or in preventing an escape.

1. A police officer or a peace 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 or she reasonably

believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of physical force; except that deadly physical force may be used for such purposes only when he or she reasonably believes that:

(a) The offense committed by such person was:

(i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or

(ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or

(b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.

2. The fact that a police officer or a peace officer is justified in using deadly physical force under circumstances prescribed in paragraphs (a) and (b) of subdivision one does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he or she is not seeking to arrest or retain in custody.

3. A person who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that he or she reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless he or she knows that the arrest or prospective arrest is not or was not authorized and may use deadly physical force under such circumstances when:

(a) He or she reasonably believes such to be necessary for

self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or

(b) He or she is directed or authorized by such police officer or peace officer to use deadly physical force unless he or she knows that the police officer or peace officer is not authorized to use deadly physical force under the circumstances.

4. A private person acting on his or her own account may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to:

(a) Defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or

(b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom.

5. A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, as that term is defined in section 205.00, or while in transit to or from a detention facility, may use physical force when and to the extent that he or she reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or therefrom.

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NOTE: Penal Law code reviewed as of 01/01/2019. Several corrections/updates were made.

Schoharie County Sheriff's Office

Subject: Provisions BODYCAM "Body-Worn Cameras" Recording System					Policy: BC120	
References/Standards:						
Effective: **January 14, 2020**			Distribution: **All Personnel**		Amends:	
Prepared by: **Sheriff Ronald R. Stevens**			Revised:		Rescinded:	
Reviewed Date:						

PURPOSE:

To establish uniform guidelines for the use of the Provisions BODYCAM "Body-Worn Cameras" recording system. The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bite hard drives. Once captured, these recording cannot be altered in any way

POLICY:

The Schoharie County Sheriff's Office has adopted the use of the Provisions BODYCAM "Body-Worn Cameras" recording system to accomplish the following policy goals:

A. To enhance Deputy and Investigators safety.
B. To accurately capture statements and events during the course of an incident.
C. To enhance the Deputies and Investigators ability to document and review statements and actions for both internal reporting requirements and for courtroom presentation.
D. To provide an impartial measurement for self-critique and field evaluation for new Deputy training.
E. To capture visual and audio information for use in current and future investigations.
F. To enhance the public trust by preserving factual representation of Deputy/Investigator-citizen interactions in the form of audio and video recording.

All Deputies and Investigators that have been issued a Provisions BODYCAM "Body-Worn Cameras" recording system shall wear it on their uniform at all times, with the exception of training days, funerals, award ceremonies, or other events approved by a supervisor.
The use of personal cell phones or electronics to view or categorize data is PROHIBITED.

TRAINING:

A. Deputies and Investigators will not utilize the "Body-Worn Cameras "recording system until they have received the proper training.

B. Training will consist of, but not limited to:

1. A review of the system, its functions, proper usage, activation and deactivation.
2. A review of the user manual and SCSO policy governing its use.
3. A hands-on review of the "On Deputy" video recording system.
4. The retention and storage features and procedures for placing data into evidence.

C. Normal (Buffering) Mode — The Provisions BODYCAM "Body-Worn Cameras" recording system will be set at a continuous 30 second loop at which time video only (No audio) will be recorded while buffering.

D. Event Mode — Once activated, the Provisions BODYCAM "Body-Worn Cameras" video recording system saves the buffered video and continues recording audio and video for up to eight (8) hours. Pressing the function button places markers on the media segment for later viewing in EVIDENCE.com,

OPERATIONAL PROTOCOLS:

A. If assigned a Provisions BODYCAM "Body-Worn Cameras" recording system it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the Provisions BODYCAM "Body-Worn Cameras" recording system in the scope of his/her duties.

B. It will be the responsibility of each Deputy or Investigator that once the Provisions BODYCAM "Body-Worn Cameras" recording system has been activated; it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene, or the citizen contact is complete.

C. There will be times when, due to the nature of law enforcement work, exigent circumstances prevent the Deputy or Investigator from activating the "Body-Worn Cameras" video recording system.

1. In those types of events the Deputy or Investigator will document the reason for not activating the "On Deputy" video recording system.

D. Deputy or Investigator will avoid recording a *child victim* of any sex offense.

1. In the event that the report of a sexual offense is disclosed following a Deputy or Investigator initiating video recording, every effort will be made to discontinue recording promptly in accordance with policy.

E. To respect the dignity of others, Deputies *should advise persons who are nude or whose sensitive human areas are exposed of recording.*

F. The Provisions BODYCAM "Body-Worn Cameras" recording system will not be used to record personal activity.

G. The Provisions BODYCAM "Body-Worn Cameras" recording system will be turned off for any courtroom testimony, this does not apply to Deputy Sheriff's assigned as court security.

H. The Provisions BODYCAM "Body-Worn Cameras" recording system shall not be intentionally activated to record conversations of fellow employees without their knowledge during routine, non-law enforcement related activities.

I. Deputies and Investigators will avoid recording any interactions with informants or undercover Officers.

J. Deputies and Investigators will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the Deputy will immediately notify their supervisor, document the malfunction and the supervisor is responsible to notify the Undersheriff, or their designee.

K. Deputies and Investigators will immediately report any loss or missing part of the "Body-Worn Cameras" recording system to their supervisor and will prepare a report outlining such loss or missing part. The supervisor is responsible for making immediate notification to the Undersheriff, or their designee.

L. Corrections Division Shift Supervisors will wear the Provisions BODYCAM during each respective tour of duty. Supervisors will test the "Body-Worn Cameras" recording equipment according to training and manufacturer's guidelines upon beginning their respective tour of duty. If any problems are encountered with any component of the system the Provisions BODYCAM "Body-Worn Cameras" recording system will not be used and the supervisor will immediately document the malfunction and the supervisor is responsible to notify the Jail Administrator, Undersheriff, or their designee.

M. Corrections Division Shift Supervisors will activate the BODYCAM recording system at anytime there is disruption, use of force, inmate disciplinary interviews or hearings, search of the facility for contraband, or other criminal act within the facility. Such recording will continue until the incident has been deemed concluded and the facility has been made safe.

EVIDENTIARY PROTOCOLS:

A. At the end of their shift, or periodically during shift, deputies and Investigators will place the Provisions Camera and battery into a designated slot of the Docking Station, which will allow the data to be transferred from the Provisions camera through the ETM to a terra bite storage hard drive. If a deputy chooses to leave the Provisions camera in a Docking Station at end of shift, he/she must immediately retrieve it at beginning of their next shift, unless there is an emergency call requiring immediate response.

B. Deputies and Investigators will not allow citizens to review any recordings.

C. The release of audio/video data requested through a public records release request will be subject to the same statutory exemptions from disclosure as any other departmental records.

D. Deputies and investigators will not make copies of any recording for their personal use and are prohibited from using a recording device (such as a telephone, camera or secondary video camera) to record any media stored on Sheriff's Office evidence hard drive or the Provisions Camera unit.

E. Deputies and Investigators will have the ability to review their recordings to ensure accurate written reports but will not be able to alter the contents of any audio/video recording that has been recorded.

A 710.30 Notice must be prepared, or the District Attorney's Office notified that the Deputy or Investigator intends to use any of the defendant's recorded audio or video recorded statements for prosecution.

F. All digital media collected using the Provisions BODYCAM "Body-Worn Cameras" recording system is considered an official record of the Schoharie County Sheriff's Office. Accessing, copying or releasing any media for other than official law enforcement purposes is strictly prohibited, except as required by law.

G. In the event that a particular recording is required for any court proceeding it is the Deputies or Investigators responsibility to notify the Undersheriff, or their designee, in writing requesting a copy of the stored data for that purpose. The Undersheriff or their designee, will make a notation in the case report that a copy of the video recording was made and was turned over to whoever requested such recording.

a **attached Property/Evidence Pull Request Form*

ADMINISTRATOR RIGHTS:

The Undersheriff, Sheriff or their designee(s), shall be the only person(s) within the SCSO to have administrator rights to all recordings stored on the Sheriff's Office Evidence hard drives or their back systems.

Schoharie County Sheriff's Office

Subject: USE OF FORCE					Policy: UF120	
References/Standards:						
Effective: January 14, 2020			Distribution: All Personnel		Amends:	
Prepared by: Sheriff Ronald R. Stevens			Revised:		Rescinded:	
Reviewed Date:						

SCHOHARIE COUNTY SHERIFF'S OFFICE – POLICY ON USE OF FORCE

The following content is derived from the Use of Force Model Policy (06/2019) produced by and used with the permission of the New York State Department of Criminal Justice Services and has been approved by the Municipal Police Training Council.

I. PURPOSE

Law enforcement officers 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 to individual agencies as they develop their own use of force policies in accordance with Executive Law §840(4)(d)(3).

This policy is not intended to endorse or prohibit any particular tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

II. POLICY

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.1 The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer 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 officers 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."2

This policy is written in recognition of 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 a careful balancing of all interests.

III. DEFINITIONS

A. Objectively Reasonable – An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable 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 officer at the time that the force was used.3
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.4
C. Physical Injury – Impairment of physical condition or substantial pain.5
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.6

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.7
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.8

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 officer 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;9
2. The level and immediacy of threat or resistance posed by the suspect;10
3. The potential for injury to citizens, officers, and suspects;11
4. The risk or attempt of the suspect to escape;12
5. The knowledge, training, and experience of the officer;13
6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;14
7. Other environmental conditions or exigent circumstances.15

VI. DUTY TO INTERVENE

A. Any officer present and observing another 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 officer has a realistic opportunity to prevent harm.
B. An officer who observes another 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 an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.**16**
B. Deadly physical force may be used to stop a fleeing suspect where:
1. 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,
2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.
3. Where feasible, some warning should be given prior to the use of deadly physical force.**17**

VIII. PROHIBITED USES OF FORCE

A. Force shall not be used by an officer 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. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.
B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force 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 standardized use of force form should be used to document any reportable use of force incident.**18**

X. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

A. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.
B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.

1 Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness.

2 Graham v. Connor, 490 U.S. 386 at 396 (1989).

3 Graham, 490 U.S. 396 (1989)

4 NY Penal Law § 10 (11) (McKinney 2013)

5 NY Penal Law § 10 (9) (McKinney 2013)

6 NY Penal Law § 10 (10) (McKinney 2013)

7 NY Penal Law and § 35.30(1) (McKinney 2013)

8 Graham, 490 U.S. at 396 (1989)

9 Ibid.

10 Ibid.

11 Scott v. Harris, 550 U.S. 372 (2007)

12 Graham, 490 U.S. at 396 (1989)

13 Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. Graham v. Connor, 490 U.S. 386 (1989), Terry v. Ohio, 392 U.S. 1 (1968)

14 Sharrar v. Felsing, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects)

15 Courts have repeatedly declined to provide an exhaustive listing of factors. Chew v. Gates, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994)

16 NY Penal Law and § 35.30(1)(c)(McKinney 2013)

17 NY Penal Law and § 35.30(1), as restricted by Tennessee v. Garner, 471 U.S. 1 (1985) (restricting the use of deadly physical force as it relates to fleeing felons) In Garner, the Supreme Court uses "significant threat of serious physical harm, either to the officer or others" in describing the limited circumstances under which deadly force can be used to prevent the escape of a felon.

18 Chiefs of police departments, County Sheriffs, and the Superintendent of State Police should consider utilizing these forms to ensure compliance with the administrative reporting requirement

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New York Consolidated Laws, Executive Law - EXC § 840. Functions, powers and duties of council

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1. The council may recommend to the governor rules and regulations with respect to:

(a) The approval, or revocation thereof, of police training schools administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved municipal police training schools;

(c) Minimum qualifications for instructors at approved police training schools;

(d) The requirements of minimum basic training which police officers appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(e) The requirements of minimum basic training which police officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(f) The requirements of minimum basic training which peace officers must complete before being eligible for certification as peace officers, pursuant to section 2.30 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=LQ&originatingDoc=I26e1de80ccaf11e8964de4

(g) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; and

(h) Exemptions from particular provisions of this article in the case of any city having a population of one million or more, or in the case of the state department of corrections and community supervision if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are lower than those established pursuant to this article.

(i) The establishment, in cooperation with the division of state police, of a formalized consumer product tampering training program for all law enforcement personnel.

(j) (1) Development, maintenance and dissemination of written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; (2) establishment and implementation on an ongoing basis, of a training program for all current and new police officers regarding the policies and procedures established pursuant to this paragraph; and (3) establishment of a training program for police officers whose main responsibilities are juveniles and the laws pertaining thereto, which training program shall be successfully completed before such officers are accredited pursuant to section eight hundred forty-six-h (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=LQ&originatingDoc=I26e22ca0ccaf11e8964de4 of this chapter.

(k) Development, maintenance and dissemination, in consultation with the department of agriculture and markets, of written policies and procedures pursuant to animal cruelty and protection laws, including, but not limited to, article twenty-six of the agriculture and markets law, section 352.3 of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=LQ&originatingDoc=I26e253b0ccaf11e8964de4 as it applies to companion animals, and applicable provisions of the penal law, regarding the investigation and prevention of any act of cruelty to animals. The council shall make provisions in such policies and procedures for the education and training in enforcement of such animal cruelty and protection laws.

(l) Exemptions from particular provisions of this article in the case of peace officers appointed by the superintendent of state police if in its opinion the standards of peace officer training provided by the division of state police exceed those established pursuant to this article.

(m) Establishment and implementation on an ongoing basis, of a training program for all current and new police officers and peace officers regarding the policies and procedures established pursuant to paragraph (k) of this subdivision.

2. The council shall promulgate, and may from time to time amend, such rules and regulations prescribing height, weight and physical fitness requirements for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as police officers of any county, city, town, village or police district as it deems necessary and proper for the efficient performance of police duties.

2-a. The council, in consultation with the state commission of correction, shall promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of basic and other correctional training programs administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved basic and other correctional training programs;

(c) Minimum qualifications for instructors at approved basic and other correctional training programs; and

(d) The requirements of a minimum basic correctional training program required by subdivision nine of section eight hundred thirty-seven-a (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e2eff0ccaf11e8964de43 of this article.

3. The council shall, in addition:

(a) Consult with, advise and make recommendations to the commissioner with respect to the exercise of his or her functions, powers and duties as set forth in section eight hundred forty-one (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=LQ&originatingDoc=I26e31700ccaf11e8964de4 of this article;

(b) Recommend studies, surveys and reports to be made by the commissioner regarding the carrying out of the objectives and purposes of this section;

(c) Visit and inspect any police training school and correctional training programs approved by the commissioner or for which application for such approval has been made;

(d) Make recommendations, from time to time, to the commissioner, the governor and the legislature, regarding the carrying out of the purposes of this section;

(e) Perform such other acts as may be necessary or appropriate to carry out the functions of the council;

(f) Develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention by new and veteran police officers in incidents of family offenses. Such policies and procedures shall make provisions for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(1) intake and recording of victim statements, and the prompt translation of such statements if made in a language other than English, in accordance with subparagraph three of this paragraph, on a standardized "domestic violence incident report form" promulgated by the division of criminal justice services in consultation with the superintendent of state police, representatives of local police forces and the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=LQ&originatingDoc=I26e38c30ccaf11e8964de and section 530.11 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=LQ&originatingDoc=I26e38c31ccaf11e8964de and

(2) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=SP&originatingDoc=I26e3b340ccaf11e8964de and notifying victims of their rights, in their native language, if identified as other than English, in accordance with subparagraph three of this paragraph, including but not limited to immediately providing the victim with the written notice required in subdivision six of section 530.11 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=SP&originatingDoc=I26e3b341ccaf11e8964de and subdivision five of section eight hundred twelve of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=SP&originatingDoc=I26e3b342ccaf11e8964de

(3) determine, in consultation with the superintendent of state police and the office for the prevention of domestic violence, the languages in which such translation required by subparagraph one of this paragraph, and the notification required by subparagraph two of this paragraph, shall be provided. Such determination shall be based on the size of the New York state population that speaks each language and any other relevant factor. Such written notice required pursuant to subparagraph two of this paragraph shall be made available to all local law enforcement agencies throughout the state. Nothing in this paragraph shall prevent the council from using the determinations made by the superintendent of state police pursuant to subdivision (c) of section two hundred fourteen-b (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e3da50ccaf11e8964de of this chapter;

(f-1) Develop, maintain and disseminate, in consultation with the office of temporary and disability assistance and the division of criminal justice services, written policies and procedures regarding human trafficking victims. Such policies and procedures shall include, but not be limited to the following: (1) the identification of potential victims of human trafficking, as defined under section four hundred eighty-three-aa of the social services law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000136&refType=LQ&originatingDoc=I26e40160ccaf11e8964de4AA); and (2) information and/or referral to appropriate social and legal services for victims of human trafficking in accordance with section four hundred eighty-three-bb of the social services law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000136&refType=LQ&originatingDoc=I26e40161ccaf11e8964de4BB);

(g) Develop, maintain and disseminate, in consultation with the state division of human rights and the state civil service department, written policies and procedures to enhance police and correctional officer recruitment efforts and to increase police and correctional officer awareness of racial, ethnic, religious and gender differences, and other diversity issues, in communities served by such police and in correctional facilities; and

(h) Consult with the state commission of correction regarding correctional training programs.

4. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with rape crisis centers experienced in assisting victims in this state, written policies and procedures consistent with applicable provisions of the family court act, domestic relations law, criminal procedure law and the penal law, regarding the investigation of and intervention by new and veteran police officers in crimes involving sexual assault. Such policies and procedures shall make provisions for education and training of new and veteran police officers in the investigation and enforcement of crimes involving sexual assault under state law, including but not limited to:

(1) techniques for interviewing sexual assault victims,

(2) fair treatment standards for crime victims pursuant to article twenty-three of this chapter,

(3) evidence gathering and evidence preservation, and

(4) dissemination of information concerning availability of local services for the victims of such crimes; and

(b) Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

(c) Disseminate the written policies and procedures promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e4c4b0ccaf11e8964de4 of this article to all police departments in this state and implement a training program for all current and new police officers regarding the policies and procedures established pursuant to such subdivision.

5. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000105&refType=LQ&originatingDoc=I26e4ebc0ccaf11e8964de4: regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

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1. The council may recommend to the governor rules and regulations with respect to:

(a) The approval, or revocation thereof, of police training schools administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved municipal police training schools;

(c) Minimum qualifications for instructors at approved police training schools;

(d) The requirements of minimum basic training which police officers appointed to probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following such appointment to a probationary term;

(e) The requirements of minimum basic training which police officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment on a non-permanent basis;

(f) The requirements of minimum basic training which peace officers must complete before being eligible for certification as peace officers, pursuant to section 2.30 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=LQ&originatingDoc=I26e1de80ccaf11e8964de4

(g) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; and

(h) Exemptions from particular provisions of this article in the case of any city having a population of one million or more, or in the case of the state department of corrections and community supervision if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are lower than those established pursuant to this article.

(i) The establishment, in cooperation with the division of state police, of a formalized consumer product tampering training program for all law enforcement personnel.

(j) (1) Development, maintenance and dissemination of written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; (2) establishment and implementation on an ongoing basis, of a training program for all current and new police officers regarding the policies and procedures established pursuant to this paragraph; and (3) establishment of a training program for police officers whose main responsibilities are juveniles and the laws pertaining thereto, which training program shall be successfully completed before such officers are accredited pursuant to section eight hundred forty-six-h (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=LQ&originatingDoc=I26e22ca0ccaf11e8964de4 of this chapter.

(k) Development, maintenance and dissemination, in consultation with the department of agriculture and markets, of written policies and procedures pursuant to animal cruelty and protection laws, including, but not limited to, article twenty-six of the agriculture and markets law, section 352.3 of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=LQ&originatingDoc=I26e253b0ccaf11e8964de4 as it applies to companion animals, and applicable provisions of the penal law, regarding the investigation and prevention of any act of cruelty to animals. The council shall make provisions in such policies and procedures for the education and training in enforcement of such animal cruelty and protection laws.

(l) Exemptions from particular provisions of this article in the case of peace officers appointed by the superintendent of state police if in its opinion the standards of peace officer training provided by the division of state police exceed those established pursuant to this article.

(m) Establishment and implementation on an ongoing basis, of a training program for all current and new police officers and peace officers regarding the policies and procedures established pursuant to paragraph (k) of this subdivision.

2. The council shall promulgate, and may from time to time amend, such rules and regulations prescribing height, weight and physical fitness requirements for eligibility of persons for provisional or permanent appointment in the competitive class of the civil service as police officers of any county, city, town, village or police district as it deems necessary and proper for the efficient performance of police duties.

2-a. The council, in consultation with the state commission of correction, shall promulgate rules and regulations with respect to:

(a) The approval, or revocation thereof, of basic and other correctional training programs administered by municipalities;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at approved basic and other correctional training programs;

(c) Minimum qualifications for instructors at approved basic and other correctional training programs; and

(d) The requirements of a minimum basic correctional training program required by subdivision nine of section eight hundred thirty-seven-a (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e2eff0ccaf11e8964de43 of this article.

3. The council shall, in addition:

(a) Consult with, advise and make recommendations to the commissioner with respect to the exercise of his or her functions, powers and duties as set forth in section eight hundred forty-one (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=LQ&originatingDoc=I26e31700ccaf11e8964de4 of this article;

(b) Recommend studies, surveys and reports to be made by the commissioner regarding the carrying out of the objectives and purposes of this section;

(c) Visit and inspect any police training school and correctional training programs approved by the commissioner or for which application for such approval has been made;

(d) Make recommendations, from time to time, to the commissioner, the governor and the legislature, regarding the carrying out of the purposes of this section;

(e) Perform such other acts as may be necessary or appropriate to carry out the functions of the council;

(f) Develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention by new and veteran police officers in incidents of family offenses. Such policies and procedures shall make provisions for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(1) intake and recording of victim statements, and the prompt translation of such statements if made in a language other than English, in accordance with subparagraph three of this paragraph, on a standardized "domestic violence incident report form" promulgated by the division of criminal justice services in consultation with the superintendent of state police, representatives of local police forces and the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=LQ&originatingDoc=I26e38c30ccaf11e8964de and section 530.11 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=LQ&originatingDoc=I26e38c31ccaf11e8964de and

(2) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=SP&originatingDoc=I26e3b340ccaf11e8964de and notifying victims of their rights, in their native language, if identified as other than English, in accordance with subparagraph three of this paragraph, including but not limited to immediately providing the victim with the written notice required in subdivision six of section 530.11 of the criminal procedure law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000066&refType=SP&originatingDoc=I26e3b341ccaf11e8964de and subdivision five of section eight hundred twelve of the family court act (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000093&refType=SP&originatingDoc=I26e3b342ccaf11e8964de

(3) determine, in consultation with the superintendent of state police and the office for the prevention of domestic violence, the languages in which such translation required by subparagraph one of this paragraph, and the notification required by subparagraph two of this paragraph, shall be provided. Such determination shall be based on the size of the New York state population that speaks each language and any other relevant factor. Such written notice required pursuant to subparagraph two of this paragraph shall be made available to all local law enforcement agencies throughout the state. Nothing in this paragraph shall prevent the council from using the determinations made by the superintendent of state police pursuant to subdivision (c) of section two hundred fourteen-b (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e3da50ccaf11e8964de of this chapter;

(f-1) Develop, maintain and disseminate, in consultation with the office of temporary and disability assistance and the division of criminal justice services, written policies and procedures regarding human trafficking victims. Such policies and procedures shall include, but not be limited to the following: (1) the identification of potential victims of human trafficking, as defined under section four hundred eighty-three-aa of the social services law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000136&refType=LQ&originatingDoc=I26e40160ccaf11e8964de4AA); and (2) information and/or referral to appropriate social and legal services for victims of human trafficking in accordance with section four hundred eighty-three-bb of the social services law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000136&refType=LQ&originatingDoc=I26e40161ccaf11e8964de4BB);

(g) Develop, maintain and disseminate, in consultation with the state division of human rights and the state civil service department, written policies and procedures to enhance police and correctional officer recruitment efforts and to increase police and correctional officer awareness of racial, ethnic, religious and gender differences, and other diversity issues, in communities served by such police and in correctional facilities; and

(h) Consult with the state commission of correction regarding correctional training programs.

4. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with rape crisis centers experienced in assisting victims in this state, written policies and procedures consistent with applicable provisions of the family court act, domestic relations law, criminal procedure law and the penal law, regarding the investigation of and intervention by new and veteran police officers in crimes involving sexual assault. Such policies and procedures shall make provisions for education and training of new and veteran police officers in the investigation and enforcement of crimes involving sexual assault under state law, including but not limited to:

(1) techniques for interviewing sexual assault victims,

(2) fair treatment standards for crime victims pursuant to article twenty-three of this chapter,

(3) evidence gathering and evidence preservation, and

(4) dissemination of information concerning availability of local services for the victims of such crimes; and

(b) Recommend to the governor, rules and regulations with respect to establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

(c) Disseminate the written policies and procedures promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000078&refType=SP&originatingDoc=I26e4c4b0ccaf11e8964de4 of this article to all police departments in this state and implement a training program for all current and new police officers regarding the policies and procedures established pursuant to such subdivision.

5. The council shall, in addition:

(a) Develop, maintain and disseminate, in consultation with the commissioner of the office for people with developmental disabilities, written policies and procedures consistent with section 13.43 of the mental hygiene law (https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000105&refType=LQ&originatingDoc=I26e4ebc0ccaf11e8964de4: regarding the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities. Such policies and procedures shall make provisions for the education and training of new and veteran police officers on the handling of emergency situations involving individuals with autism spectrum disorder and other developmental disabilities; and

(b) Recommend to the governor, rules and regulations with respect to the establishment and implementation on an ongoing basis of a training program for all current and new police officers regarding the policies and procedures established pursuant to this subdivision, along with recommendations for periodic retraining of police officers.

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N.Y. Penal Law § 121.13-A

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Current through 2020 NY Law Chapter 286

Section 121.13-A - Aggravated strangulation

Aggravated strangulation. A person is guilty of aggravated strangulation when, being 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, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven-t of the executive law, and thereby causes serious physical injury or death to another person. Aggravated strangulation is a class C felony.

N.Y. Penal Law § 121.13-A

Added by New York Laws 2020, ch. 94,Sec. 2, eff. 6/12/2020.

Previous Section
Section 121.13 - Strangulation in the first degree

Next Section
Section 121.14 - Medical or dental purpose

NEW YORK STATE | Division of Criminal Justice Services

MEMORANDUM

TO: New York State Police Departments and Sheriffs' Offices

FROM: Mary Schmitt, New York State Crime Reporting Program

DATE: October 26, 2020

SUBJECT: REPORTING ALERT: IJ Portal Use of Force reporting interface to go live on December 1, 2020

Beginning December 1, 2020, all police departments and sheriffs' offices and the New York State Police must submit use of force incidents that occur ***on or after November 1, 2020,*** through a new Use of Force Reporting Interface accessible through the eJustice New York Integrated Justice Portal (IJ Portal).

Police departments and sheriffs' offices must use the existing data collection tool to report use of force incidents occurring ***prior to November 1, 2020***. Agencies will have until **December 15, 2020** to submit new or update incidents that they have already reported. The existing data collection tool will be discontinued as of that date.

Agencies are expected to submit use of force incidents to the state Division of Criminal Justice Services (DCJS) no later than 30 days after a month ends (i.e. January data no later than the end of February).

Use of Force Data Reporting Requirements

As a reminder, state law (Executive Law 837-t) requires the chief of every police department, each county sheriff, and the superintendent of state police to report to DCJS any instance in which a police officer or a peace officer (Criminal Procedure Law 1.20.34 and 2.10) uses force.

The following Use of Force incidents must be reported:

Display a chemical agent - To point a chemical agent at a person or persons.

Use/Deploy a chemical agent - The operation of the chemical agent against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.

Brandishes a firearm - To point a firearm at a person or persons.

Uses/Discharges a firearm - To discharge a firearm at or in the direction of a person or persons.

Brandishes an electronic control weapon - To point an electronic control weapon at a person or persons.

Uses/Deploys electronic control weapon - The operation of an electronic control weapon against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.

Brandishes an impact weapon - To point an impact weapon at a person or persons.

Uses/deploys an impact weapon - The operation of an impact weapon against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.

Uses a chokehold or other similar restraint - Any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.

Conduct which results in the death or serious bodily injury of another person - Serious bodily injury includes bodily injury that creates or causes:

- a substantial risk of death; or
- unconsciousness; or
- serious and protracted disfigurement; or
- protracted loss or impairment of the function of any bodily member, organ or mental faculty.

Please contact DCJS at useofforce@dcjs.ny.gov for more information and/or questions about the use of force reporting process.

Accessing the Use of Force Reporting Interface

The Use of Force Reporting Interface is accessible through the IJ Portal, a secure site that requires a username and password to access. All new requests for IJ Portal accounts must be coordinated through an agency's designated Terminal Agency Coordinator (TAC). TACs can use the "Feedback" link in the IJ Portal or email portalhelpdesk@ejusticeny.gov with any questions about access.

Instructions for accessing the Interface and submitting monthly Use of Force incidents are attached and available on the DCJS website:

https://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/use-of-force.htm

BREAKING | Jun 16, 2020, 12:44pm EDT

Trump Signs Executive Order Banning Choke Holds 'Unless An Officer's Life Is At Risk'



Jack Brewster Forbes Staff
Business
I'm a news reporter for Forbes.

Updated Jun 16, 2020, 02:26pm EDT

TOPLINE President Trump signed an executive order Tuesday on police reform that bans choke holds "unless an officer's life is at risk," increases federal oversight of police departments and encourages departments to move toward better practices on use of force, though the order falls short of what activists are pushing for and ties its mandates to incentives.





Surrounded by members of law enforcement, President Trump signs an executive order on "Safe Policing ... [+] ALEX WONG/GETTY IMAGES

KEY FACTS

- Under the order, the federal government will require police departments to ban chokeholds, the police maneuver used by the Derek Chauvin in the killing of George Floyd, to receive certification that will allow them to access federal grants.
- It will also create a database to track police officers with several misconduct violations and push for departments to involve mental healthcare workers on calls dealing with homelessness, mental illness and addiction.
- Activist groups are expected to criticize the order as not doing enough: in the wake of George Floyd's death, protest groups, including Black Lives Matter, have pushed for sweeping reform, including "defunding the police."
- Trump decried the "radical and dangerous efforts to dissolve our police" during prepared remarks in the Rose Garden before he—surrounded by law enforcement—signed the order Tuesday, adding "without police, there is chaos."
- After discussing the policy details of his executive order, the president dedicated much of his remarks Tuesday toward decrying protesters and attacking the record of his predecessor, former president Barack Obama, and former vice president and presumptive Democratic nominee Joe Biden.

CRUCIAL QUOTE

Trump has rallied to the defense of police officers and argued Tuesday that police misconduct was the the work of a small percentage of police officers: "They're very tiny. I use the word tiny. It's a very small percentage. But you have them. But nobody wants to get rid of them more than the really good and great police officers."

KEY BACKGROUND

Trump said Tuesday that his executive order would go "hand in hand" with the bill Senate Republicans are working on—and implored GOP leadership to get a bill done quickly. Led by Sen. Tim Scott (R-S.C.), Republican senators are working to put together a bill that would increase training to focus on de-escalation tactics and lessen the potential for choke holds, among other measures. House Democrats are debating a bill that would ban choke holds outright, and no-knock warrants in drug cases, as was used in the fatal shooting of Breonna Taylor in Louisville, Kentucky, in March, and increase police accountability, among other reform measures.

CHIEF CRITIC

Democrats criticized the order for not going far enough: "While the president has finally acknowledged the need for policing reform, one modest executive order will not make up for his years of inflammatory rhetoric and policies designed to roll back the progress made in previous years," Senate Minority Leader Charles Schumer (D-N.Y.) said in a statement.

FURTHER READING

Trump To Sign Executive Order On Police Reform (NPR)

Trump Plans Executive Order To 'Encourage' Police Reform (Forbes)

Gmail

Bill Federice <federicebill@gmail.com>

MPTC Model Policy (9/2020)

1 message

Bruce Baker <bruce.baker@co.schoharie.ny.us> Sat, Nov 28, 2020 at 10:08 AM
To: Bill Federice <federicebill@gmail.com>, Dick Lape <lapelspc@midtel.net>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Peggy Hait <peggy.hait@co.schoharie.ny.us>
Cc: Ronald Stevens <ronald.stevens@co.schoharie.ny.us>

Good morning all-

I have attached a PDF of the "newest" NYS MPTC Use of Force model policy. It was mentioned in an email this week so....

As such I have forwarded the attachment to the policy team here in the office and I will be providing hard copies to those who attend the meeting on Tuesday. I am sending you this now to conserve paper, but also let you look it over. Just a note, our new policy meets all the same points, and in many instances exceeds the state model. We are planning on a few slides to discuss points of concern before going over the policy, line by line word by word with all who attend. The idea of doing this on a big screen, limits the possibility of a draft copy being on the street before being official, and allows those viewing on line or at home to also see the policy.

Barring any new emails, we should be in good shape.

As a suggestion for the next meeting we should probably address the bodycam issue and release the current and (if ready) new policy.

Investigator Bruce Baker

Schoharie County Sheriff's Office

157 Steadman Way

Howes Cave, N.Y. 12092

Desk 518.295.2209.

Dispatch 518.295.8114

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MPTC Use of Force - September 2020 MPTC final.pdf
264K

NEW YORK STATE | Division of Criminal Justice Services

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DATE: October 26, 2020

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- a substantial risk of death; or
- unconsciousness; or
- serious and protracted disfigurement; or
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Please contact DCJS at useofforce@dcjs.ny.gov for more information and/or questions about the use of force reporting process.

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https://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/use-of-force.htm

Use of Force

Model Policy

September 2020



Municipal Police
Training Council

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

www.criminaljustice.ny.gov

NEW YORK STATE | Municipal Police Training Council

Use of Force Model Policy

STATE OF NEW YORK
Division of Criminal Justice Services
Office of Public Safety

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VERSION September 2020

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Use of Force
Model Policy

At the forefront of the national discussion involving policing in America is the way in which police use force. Agency policies regarding the use of force are facing increased scrutiny and agencies are seeking to ensure that their Use of Force policies are well-reasoned. Agencies are increasingly concerned with providing their officers with the best direction possible as they are tasked with making split-second judgements under circumstances that are tense, uncertain, and rapidly evolving.

The Council sought to address these concerns with the attached policy. The MPTC Use of Force model policy is firmly rooted in the 4th Amendment jurisprudence that governs police use of force, while remaining broad enough to serve as a framework for any agency in New York to build upon. This version of the policy has been promulgated pursuant to Executive Law §840(4)(d)(3) and adopted by the Municipal Police Training Council in September of 2020.

Acknowledgements

The New York State Division of Criminal Justice Services (DCJS) acknowledges the extensive work done by the following associations and agencies:

District Attorney's Association of the State of New York

Law Enforcement Training Directors Association of New York State

New York State Association of Chiefs of Police

New York State Police

New York City Police Department

New York State Sheriff's Association

New York State University Police

New York State Department of Corrections and Community Supervision

Use of Force - Model Policy

Municipal Police Training Council

I. PURPOSE

Law enforcement officers 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 to individual agencies as they develop their own use of force policies in accordance with Executive Law §840(4)(d)(3).

This policy is not intended to endorse or prohibit any particular tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

II. POLICY

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.[1] The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer 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 officers 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."[2]

This policy is written in recognition of 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 a careful balancing of all interests.

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[1] Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness.

[2] *Graham v. Connor*, 490 U.S. 386 at 396 (1989).

III. DEFINITIONS

A. **Objectively Reasonable** – An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable 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 officer at the time that the force was used.[3]

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.[4]

C. **Physical Injury** – Impairment of physical condition or substantial pain.[5]

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.[6]

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.[7]

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.[8]

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 officer at the time of the event.

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[3] *Graham,* 490 U.S. 396 (1989)
[4] NY Penal Law § 10 (11) (McKinney 2013)
[5] NY Penal Law § 10 (9) (McKinney 2013)
[6] NY Penal Law § 10 (10) (McKinney 2013)
[7] NY Penal Law and § 35.30(1) (McKinney 2013)
[8] *Graham*, 490 U.S. at 396 (1989)

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 police or peace officer or other law enforcement entity 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.[19]

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 others.[20]

B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force 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.

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[19] NY Civil Rights Law § 28
[20] NY Mental Hygiene Law § 9.41

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;[9]

2. The level and immediacy of threat or resistance posed by the suspect;[10]

3. The potential for injury to citizens, officers, and suspects;[11]

4. The risk or attempt of the suspect to escape;[12]

5. The knowledge, training, and experience of the officer;[13]

6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;[14]

7. Other environmental conditions or exigent circumstances.[15]

VI. DUTY TO INTERVENE

A. Any officer present and observing another 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 officer has a realistic opportunity to prevent harm.

B. An officer who observes another 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.

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[9] *Ibid.*
[10] *Ibid.*
[11] *Scott v. Harris*, 550 U.S. 372 (2007)
[12] *Graham,* 490 U.S. at 396 (1989)
[13] Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. *Graham v. Connor,* 490 U.S. 386 (1989), *Terry v. Ohio,* 392 U.S. 1 (1968)
[14] *Sharrar v. Felsing*, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects)
[15] Courts have repeatedly declined to provide an exhaustive listing of factors. Chew *v. Gates*, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994)

VII. USE OF DEADLY PHYSICAL FORCE

A. 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.[16]

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

1. 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,

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

3. Where feasible, some warning should be given prior to the use of deadly physical force.[17]

C. Chokeholds and Obstruction of Breathing or Blood Circulation

1. 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, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized.[18]

VIII. PROHIBITED USES OF FORCE

A. Force shall not be used by an officer 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;

---

[16] NY Penal Law and § 35.30(1)(c)(McKinney 2013)
[17] NY Penal Law and § 35.30(1), as restricted by *Tennessee v. Garner*, 471 U.S. 1 (1985) (restricting the use of deadly physical force as it relates to fleeing felons) In *Garner*, the Supreme Court uses "significant threat of serious physical harm, either to the officer or others" in describing the limited circumstances under which deadly force can be used to prevent the escape of a felon.
[18] NY Penal Law § 121.13-a establishes the crime of Aggravated Strangulation.

5. Incidents where a firearm was discharged at a subject.[21]

C. A standardized use of force form should be used to document any reportable use of force incident.[22]

D. Officers should document any requests for necessary medical or mental health treatment as well as efforts of police 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 force investigation.

B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.

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

D. The [applicable person, unit, or bureau] will receive the supervisor's report and conduct an investigation.

E. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines.[23]

XI. TRAINING

A. All officers should receive training and demonstrate their understanding on the proper application of force.

B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies,

---

[21] NY EXC § 837-v requires that any discharge of a weapon, while either on duty or off duty, in the direction of a person be verbally reported to the involved officer's supervisor within six hours and a written report prepared within forty-eight hours of occurrence.
[22] Chiefs of police departments, County Sheriffs, and the Superintendent of State Police should consider utilizing these forms to ensure compliance with the administrative reporting requirement of EXC §837-t.
[23] NY EXC § 840(4)(d)(2)(vi)

including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.[24]

C. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

[24] EXC § 840(4)(d)(2)(vii)

Gmail **Bill Federice <federicebill@gmail.com>**

Use Of Force Policy - Schoharie County Sheriffs Office

1 message

Ronald Stevens <ronald.stevens@co.schoharie.ny.us> Fri, Nov 27, 2020 at 1:58 PM
To: Richard Lape <richard.lape@co.schoharie.ny.us>, Peggy Hait <peggy.hait@co.schoharie.ny.us>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Harold Vroman <harold.vroman@co.schoharie.ny.us>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>
Cc: Ron Stevens <ronaldstevens@mac.com>

Chairman of Board and Members of the Law Enforcement Committee,

Hope that you all had a wonderful Thanksgiving.

Kindly find the two attached documents (1) Existing UOF Policy and (2) Use of Force Draft.

I wanted to provide all of you with the Existing Use of Force Policy and the Draft of our New Use of Force Policy so that you could familiarize yourself with the differences before our meeting on December 1, 2020. Please remember this is a DRAFT therefore it's a work in progress until our Deputies become familiar with it and educated in its practice. Please keep it close at hand.

Respectfully, rrs

Ronald R. Stevens

Sheriff

Schoharie County

PO Box 159

157 Steadman Way

Howes Cave, NY 12092

518-295-2207 O

518-860-6425 C

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2 attachments

Existing UOF Policy.pdf
226K

Use_of_Force (7) Draft.pdf
32K

1. These photographs and/or video should be retained until all potential for civil litigation has expired.

(d) Identify any witnesses not already included in related reports, including any deputies present at the incident.

(e) Review and approve all related reports.

1. Supervisors should require that deputies who engaged in the use of force submit the appropriate reports and forms.

(f) 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.

1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to identify any training needs.

300.7.2 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES
The Shift Supervisor should ensure that the Records Clerk is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3). See the Records Division Policy for additional guidelines.

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, deputies should receive periodic training on:

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

(b) De-escalation tactics, including alternatives to force.

(c) Applications of use of force and conflict strategies as required by the state 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 office website (Executive Law § 840).

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300.10 USE OF FORCE ANALYSIS

Office Use of Force reporting forms should be periodically reviewed to identify any use of force trends that exist within the agency and/or to identify potential training needs.

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Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. Every member of this office 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 deputy 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 deputy at the time, taken as a whole, including the conduct of the deputy 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. Deputies are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Deputies 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 Schoharie County Sheriff's Office recognizes and respects 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 monitoring, evaluation, and a careful balancing of all interests.

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300.2.1 DUTY TO INTERCEDE AND REPORT

It is imperative to this office that our reputation and legitimacy in the community be safeguarded. There is no greater detriment to the public trust than use of excessive force. It is the duty of every member of this office to defend our reputation and legitimacy by aggressively combating use of excessive force.

Any deputy 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, intercede to prevent the use of unreasonable force.

Any deputy who observes another law enforcement officer or a member use force that is 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 deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have a different vantage point oradditional information regarding the threat posed by the subject.

300.3 USE OF FORCE

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy 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 deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies 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 a deputy might encounter, deputies 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 deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this office. Deputies 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 a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

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300.3.1 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 deputy 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.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy 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 deputies or others.

(b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.

(c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies 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 deputy 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 deputy.

(l) Potential for injury to deputies, suspects, and others.

(m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.

(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.

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(p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.

(q) Prior contacts with the individual or awareness of any propensity for violence.

(r) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies 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.

(b) Whether the individual can comply with the direction or orders of the deputy.

(c) Whether the individual has been given sufficient opportunity to comply.

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

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

Deputies regularly respond to tense or emotionally charged incidents. It is the mission of this office to bring these such situations to the most peaceful resolution possible. Research and experience have shown us that Deputies are more likely to accomplish this goal if the individual(s) or situation can be de-escalated. De-escalation is always preferable to use of physical force and de-escalation techniques should be employed whenever possible and practicable to help achieve compliance or to help resolve a situation. When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion). Deputies should receive continuing training in these areas whenever practicable.

300.3.5 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following:

(a) A carotid control hold may only be utilized by office members trained to properly do so.

(b) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.

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(c) Any individual who has had the carotid control hold 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.

(d) The deputy shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.

(e) Any deputy attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.

(f) The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.

300.3.6 STATE RESTRICTIONS ON THE USE OF OTHER 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 is strictly prohibited unless deadly physical force is authorized (Exec. Law § 840).

300.3.7 USE OF FORCE TO SEIZE EVIDENCE

In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. In the instance when force is used, deputies 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 and practicable, the deputy shall, prior to the use of deadly force, make efforts to identify him/herself as a peace or police officer and to warn that deadly force may be used, unless the deputy 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) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.

(b) A deputy may use deadly force to stop a fleeing subject when the deputy 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 deputy 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.

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 a deputy reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may

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also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the deputy believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks.

When feasible, deputies 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.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy 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 deputy or others.

Deputies 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 office shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Office may require the completion of additional report forms, as specified in office 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.

(b) The individual subjected to the force complained of injury or continuing pain.

(c) Any application of the TASER (TM) or control device.

(d) Any application of a restraint device other than handcuffs, shackles, or belly chains.

(e) The individual subjected to the force was rendered unconscious.

(f) An individual was struck or kicked.

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 he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

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Based upon the deputy'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 deputy 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 deputy 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 deputy 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 (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies 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.

300.6.1 ADDITIONAL STATE REQUIREMENTS

A deputy 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.

Deputies 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 resulting in visible injury, 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 (Executive Law § 840):

(a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs and/or videos have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs and/or video of uninjured areas.

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1. These photographs and/or video should be retained until all potential for civil litigation has expired.

(d) Identify any witnesses not already included in related reports, including any deputies present at the incident.

(e) Review and approve all related reports.

1. Supervisors should require that deputies who engaged in the use of force submit the appropriate reports and forms.

(f) 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.

1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

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.

300.7.1 SHIFT SUPERVISOR RESPONSIBILITIES

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

300.7.2 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor should ensure that the Records Clerk is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3). See the Records Division Policy for additional guidelines.

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, deputies should receive periodic training on:

(a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

(b) De-escalation tactics, including alternatives to force.

(c) Applications of use of force and conflict strategies as required by the state 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 office website (Executive Law § 840).

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300.10 USE OF FORCE ANALYSIS

Office Use of Force reporting forms should be periodically reviewed to identify any use of force trends that exist within the agency and/or to identify potential training needs.

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Gmail

Bill Federice <federicebill@gmail.com>

FW: Use of Force Question

1 message

Bruce Baker <bruce.baker@co.schoharie.ny.us> Mon, Nov 30, 2020 at 10:30 AM
To: Ronald Stevens <ronald.stevens@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>, Dick Lape <lapelspc@midtel.net>

In an effort to help with our due diligence and researching the topic of the continuum that keeps coming up, I sent the question to DCJS. This is the thread and their response.

From: Puckett, Michael (DCJS) <Michael.Puckett@dcjs.ny.gov>
Sent: Monday, November 30, 2020 9:42 AM
To: Bates, Molly (DCJS) <Molly.Bates@dcjs.ny.gov>; Bruce Baker <bruce.baker@co.schoharie.ny.us>
Subject: RE: Use of Force Question

Hi Bruce,

Thanks for reaching out. We stopped using the continuum as a training aid a few years ago with the adoption of the new *Use of Physical Force and Deadly Physical Force* lesson plan in the Basic Course for Police Officers which was required to be taught beginning in 2018. If you recall, previously the section was much shorter and essentially consisted of a restatement of Article 35. We determined that this was the wrong approach for several reasons, not the least of which is that Article 35 is a defense to criminal liability and not a decision-making tool for police officers and the fact that Article 35 excuses conduct that would clearly be unconstitutional. The continuum was actually in the Defensive Tactics program, but we dropped it there too.

Your reference to the continuum as a "standard" illustrates one of the problems with the continuum. Use of force use of force continuums were developed as *training tools* – many before the current controlling case law was even decided. Prior to the effective use of 42 U.S.C. §1983 to address police use of excessive force in the 70's & 80's, agencies were left to train officers on use of force using state justification statutes like Article 35. Many states didn't (and still don't) have similar statues and the current case law hadn't yet been decided. What was seen as controlling was the *Glick* decision which, relying on a test devised in 1952(!), was widely interpreted to require that a plaintiff claiming excessive force show that an officer acted with malice in applying force "for the purpose of causing harm." Since the constitutional standard could not be trained to (how do you train cops not to act sadistically or maliciously?), agencies devised use of force continuums to assist officers in understanding what was expected of them. Again, during this time, the case law was not instructive, because the substantive due process analysis that existed provide no guidance to officers. So LAPD came up with their thermometer style and other agencies came up with pyramids, step-ladders, and eventually circular shapes.

In 1989, the United States Supreme Court, in a 9-0 decision, declared that use of force by law enforcement officers was a question not of the 14th Amendment's Due Process clause, but of the 4th Amendment's protection against unreasonable searches and seizures. In doing so, they made the question one of *objective reasonableness* and removed the requirement that a plaintiff show that an officer's use of force "shocks the conscience." Additionally, they declared that this standard required a careful balancing of the rights of the individual with the legitimate interest of government and required an analysis of the "totality of the circumstances" of the situation. They also cautioned that the standard was not capable of "precise definition or mechanical application." But law enforcement already had their continuums and law enforcement trainers were already training with them, so police training went largely unchanged.

But the standard *had* changed. And here's where I want to stress that continuums were never a standard... they were a training tool to be used in the *absence* of a workable standard, which is what we had before under the hodgepodge of state laws and the substantive due process standard under the constitution. But 31 years ago, SCOTUS gave us a standard that is workable and is trainable and takes into account the rights of citizens and balances them with the legitimate interest of government, again in a unanimous Court decision. And the courts – SCOTUS and the lower courts – kept giving them to us. We've got decision after decision that can be used to training police officers in the lawful use of force. Of course, there are policy provisions that an agency may choose to enact that are not necessarily constitutionally unreasonable... shooting at moving vehicles or banning of neck restraints. There's nothing preventing an agency from adopting those provisions within policy and training to them.

Continuums are not a standard but have become to be viewed as such; they are the attempt at a mechanical application that SCOTUS warned us about. No matter how complex they become or what shape they take, they cannot allow for a consideration of the totality of the circumstances which is what's required by the constitution. They don't, for instance, tell an officer that a 35 year old man with a baseball bat is not the same as a 10 year old armed with one or that a Taser on a fire escape is a different amount of force than a Taser in the grass. They don't differentiate between closed fist strikes to a person who is against a wall vs a person who is not. They can't account for the relevance of the number of officers or suspects or the size, age, or physical condition of those suspects. They can't account for mental condition, known physical abilities, or known violent history of a suspect. All of these things (and more) are required to be considered by the constitution.

One final critique of continuums (but I have more)... the argument that a color-coded chart can be used to help an officer make a decision is laughable to anyone who's ever made a decision under time compressed, rapidly evolving, and uncertain circumstances – the very definition of the police decision-making environment. That's simply not how human beings make decisions and that rational decision-making model has been rejected by those that study decision-making of the type engaged in by police officers. If you'd like to talk further, I'd be happy to. Additionally, I might suggest keeping an eye out for our 2-day Use of Force Refresher course where we going into the constitutional standard in great detail and discuss methods to train it too. There are none currently scheduled, but that should change soon!

Best,

Mike

--
Michael Puckett

Senior Training Technician - Police, Office of Public Safety

NYS Division of Criminal Justice Services

80 South Swan Street

Albany, New York 12210

(518) 457-4917 | (518) 457-0145 | michael.puckett@dcjs.ny.gov

http://www.criminaljustice.ny.gov/

P.S. - Here's a webinar that Daigle Law Group recently conducted on use of force continuums:
https://diglearningcenter.com/free-webinar-use-of-force-continuum/

From: Bates, Molly (DCJS) <Molly.Bates@dcjs.ny.gov>
Sent: Friday, November 27, 2020 10:48 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Cc: Puckett, Michael (DCJS) <Michael.Puckett@dcjs.ny.gov>
Subject: RE: Use of Force Question

Bruce,

I am copying Mike Puckett in my response, as he is best to answer the questions regarding the continuum. I have attached a copy of the MPTC model policy for your review in case you have not had a chance to review it. It may help with some of your questions until Mike is able to respond.

Mike will get back to you early next week.

Thank you,

Molly M. Bates

Associate Training Technician (Police)

Office of Public Safety

New York State Division of Criminal Justice Services

80 South Swan Street, Albany, NY 12210

(518) 485-5304 | F(518) 457-0145| molly.bates@dcjs.ny.gov

From: Bruce Baker <bruce.baker@co.schoharie.ny.us>
Sent: Friday, November 27, 2020 10:39 AM
To: Bates, Molly (DCJS) <Molly.Bates@dcjs.ny.gov>
Subject: Use of Force Question

Good morning-

As part of the Governors reform order, I have been assigned to the Sheriff's Office task force. As such, our community representatives have been pursuing input with regards to our use of force policy. They frequently sight Campaign Zero and similar groups that seek a use of force continuum rather than NYS's objective reasonableness approach. As such, we have tried to explain the fact that NYS has determined the standard and as such trains officers to that standard.

I am wondering if you could possibly tell me 1) When did NYS discontinue following the continuum standard? And 2) is there a specific document (outside of Graham v. Connor, or the training manual that would indicate the NYS reasoning?

We have completed our newest policy in accordance with the 2019/2020 legal updates and wish to roll it out, however we want to ensure the community we are not making an arbitrary decision to overlook the continuum ideal.

Any help would be greatly appreciated. Thank you

Investigator Bruce Baker

Schoharie County Sheriff's Office

157 Steadman Way

Howes Cave, N.Y. 12092

Desk 518.295.2209.

Dispatch 518.295.8114

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Gmail

Bill Federice <federicebill@gmail.com>

Recommendations from Rural Awakening

2 messages

Pat Hults <hultsp@outlook.com> Fri, Nov 27, 2020 at 9:00 AM
To: "federicebill@gmail.com" <federicebill@gmail.com>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>
Cc: "theresa.heary@gmail.com" <theresa.heary@gmail.com>, "windmill@midtel.net" <windmill@midtel.net>, "wcook001@luthersem.edu" <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>, "shelaria@gmail.com" <shelaria@gmail.com>, "regerino42@gmail.com" <regerino42@gmail.com>, "montionea@gmail.com" <montionea@gmail.com>

Hello Mr. Federice and Chief Stevens,
Attached are recommendations re policing and policing policies from the Rural Awakening Committee on Policing. We wanted to send out recommendations to all police departments in the county, so we recognize you have already implemented some of these.
We also want to state how much respect we hold for the county police department and the innovative and ahead of the curve work you have already done. And we appreciate your cooperative attitude that allows us to work together to improve policing in our county.

Patricia Hults
Hultsp@outlook.com
518-441-2717

sent from Outlook

6 attachments

Policing Recommendations-County_Nov25.docx
42K

ATT00001.htm
1K

Appendix_A_8cantwaitpolicy.docx
35K

ATT00002.htm
1K

Appendix_B_Compare Cities.docx
471K

ATT00003.htm
1K

Bill Federice <federicebill@gmail.com> Sun, Nov 29, 2020 at 9:50 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>

[Quoted text hidden]

Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

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6 attachments

ATT00001.htm
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ATT00002.htm
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Appendix_B_Compare Cities.docx
471K

ATT00003.htm
1K

Recommendations on Improved Police Policies

From Rural Awakenings Police Policy Committee

Wendy Cook, Reggie Harris, Peter Harrison, Theresa Heary, Pat Hults, Alyson Montione, Debbie Paden, and Bobbi Wilding

November 23, 2020

As we work to comply with NYS Executive Order 203 and develop a plan to improve police force actions, address racial bias and disproportionate policing of communities of color through a review and consideration of policing strategies, we offer the following recommendations to every police department operating in Schoharie County. We support consistency across departments, but recognize that each department may apply different language in their respective policies. We also recognize that some recommendations may already be included in specific policies.

1. Use of force policies

We recommend adopting a higher standard than "objective reasonableness," as reflected in the model policy developed by "Campaign Zero" (8cantwait) which is attached as Appendix A. The model policy retains some uses of the term "objective reasonableness" but expands upon it. This higher standard requires a series of policy changes which build upon the "objectively reasonable" standard by delineating those actions that are and are not acceptable, following a Use of Force Continuum. Policy language can acknowledge that some situations occur too rapidly for step-by-step continuum of force. Use of force policies proposed by Lexipol should be reviewed against this model. Appendix B contains a list of cities that utilize specific policy recommended by Campaign Zero (8can'twait).

Chokeholds have been banned by NYS law; there are now criminal penalties for the use of a chokehold. NYC has gone further and holds police officers culpable for sitting, kneeling or standing on the chest or back in a manner that compresses the diaphragm. We recommend that policies comply with NYC requirements and include prohibitions against neck holds, chokeholds, strangleholds, lateral vascular neck restraints, carotid restraints, chest compressions, or any other tactic that restricts oxygen or blood flow to the head or neck.

We recommend that the policy requires body cameras be turned on and operating at all times when force of any kind may be used.

We recommend that the use of force policy utilize the concept of "immediate" danger, not "imminent" danger. An imminent danger is an anticipated danger that is likely to happen, is impending, and is separated by space or time. This impending danger could be one hour, one day, or an unknown time away but is still imminent. An immediate danger is a present danger that is next in order and not separated by space or time.

We recommend the use of reasonable, proportional, and necessary force, with the goal of preserving human lives of all involved (officers, suspects, bystanders); employing alternatives to use of force; and requiring that officers to exhaust all other reasonable means before resorting to deadly force through:

a. De-escalation

b. Decreasing exposure to potential threat by use of a variety of methods

c. Use of communications

d. Other methods that reduce the risk of violent confrontation.

We recommend a prohibition on shooting at a moving vehicle, unless shooting is coming from the vehicle.

We recommend requiring officers to report each time they use force or threaten to use force against civilians.

We recommend requiring officers to intervene and stop excessive force used by other officers and report these incidents immediately to a supervisor. We recommend that officers be required to provide medical assistance when needed.

We recommend regular training for officers to reinforce all of these requirements, and clear communication from leadership that these policies are important and expected.

2. Procedural justice

We recommend that policies and practices require transparency and equal treatment for all. Transparency means that the police department shall provide information to the public upon request in all police events, not just discharged weapons. Transparency should include officers' disciplinary records, body camera recordings, other pertinent material, and complaints. Complainants should have the ability to review results of their complaint. Transparency must be timely – no waiting months for video footage, reports, records.

We recommend fostering, supporting and promoting a police culture that does not tolerate misbehavior, and holds officers accountable. This includes peer accountability and support, re-training when necessary, and firing and/or bringing criminal charges when appropriate. Leadership must be role models and enforce policies.

We recommend a county-wide citizen review board for all police departments functioning within the county for deadly use of force and citizen complaints not satisfied by individual departmental complaint processes.

We recommend that officers have access to high quality mental health services and that the department foster a work environment that encourages and normalizes use of such services.

3. Any studies addressing systemic racial bias or racial injustice in policing

We recommend an annual time-bound sample study by the police force that tracks racial/ethnicity/gender/religious data on selected low-level interactions such as traffic stops to use as an evaluative tool to assess disproportionate stops of people who members of various ethnic and minority religious groups. Results of the studies should guide next steps for implicit bias training.

4. Implicit bias awareness training

We recommend that adequate and substantial training specifically focusing on implicit bias be required, and repeated/updated regularly, at least annually. Funding for such training is essential, and should be allocated by the relevant government body.

We recommend quality training in identifying and responding to hate crime – if you don't recognize it, you underestimate the problem in the community. Talking to people of color from the community, you start to understand that there is always a low level of hostility humming around in the form of snide comments, rude behavior, nasty looks, nasty signs and inappropriate fear. It may not be daily or even weekly, but it doesn't take many of these responses to contaminate the environment. This is well beyond the responsibility of just the police department, but the department needs to acknowledge the issue and its impact on the community. The police also need to understand the legitimate fear many people of color have toward police – appropriate fear given our long history of police abuse. It doesn't matter whether our specific police department engaged in abuse – enough departments have, so that a reasonable person of color needs to be cautious of all departments. Departmental training must be evaluated, including feedback from the community.

5. De-escalation training and practices

We recommend that Use of Force written policies in particular should require de-escalation on a continuum, and require officers to exhaust all available methods of resolving a situation before using force.

We recommend mandatory, adequate and substantial training specifically on de-escalation occur annually. Funding for such training is essential, and should be allocated by the relevant government body.

6. Law enforcement assisted diversion programs

We recommend expanding the current LEAD program. This program is a valued option as it is currently utilized. We recommend continued and enhanced collaboration of services between the police, health department, mental health services and public defender legal services.

However, a program that relies on officer discretion for offering the service must be very careful to acknowledge implicit bias (race, gender, economic status, etc..) and take steps to reduce its impact, such as keeping data on who is and who isn't offered access to the program and who is and isn't referring people to the program, and adjusting the program accordingly.

7. Restorative justice practices

Albany County uses restorative justice practices, including in Berne, where this option has been successfully utilized at no cost to the Town. Rev. Bob Hoffmann in Berne heads up the local committee. We recommend asking him if he is willing to talk to Susan Mallory and the District Attorney. We recognize that this is beyond just the scope of the police department.

Recommendation: work with other entities, including Catholic Charities, to investigate ways to set up processes to mediate disputes, utilize victim impact panels, explore alternatives to incarceration, including community service, will require community input and collaboration.

8. Community based outreach and conflict resolution

We recommend expanding the LEAD program to support high-risk individuals before a crime is committed.

9. Problem-oriented policing

We do not have a recommendation at this time.

10. Hot Spots policing

We do not have a recommendation at this time.

11.Focused deterrence

We do not have a recommendation at this time.

12.Crime prevention through environmental design

We do not have a recommendation at this time.

13. Violence prevention and reduction interventions

We do not have a recommendation at this time.

14. Model policies and guidelines promulgated by the NYS Municipal Police Training Council

We recommend providing copies of these policies to Committee members and interested members of the public.

15. Standards promulgated by the NYS Law Enforcement Accreditation Program

The Village Board and the County have contracted with Lexipol to evaluate and assist in necessary revisions of their Police Policies and Procedures Manuals. Recommend that the proposed Lexipol policies be reviewed with the policies attached as Appendix A and the recommendations set forth above in mind, Lexipol recommendations should be tailored to provide the appropriate policies for Schoharie County and its citizens with the concepts of racial equality and racial bias in mind. If possible, both the Village Police Department and the County Sheriff's Office should take all necessary steps to become an accredited law enforcement agency.

Model Use of Force Policy from 8cantwait (campaign zero)

I. GENERAL

This policy sets forth criteria governing the use of force for the [Insert Jurisdiction] to prevent unnecessary force, ensure accountability and transparency, and ensure the community's trust and confidence in the [Insert Jurisdiction] ability to protect and serve.

MISSION. It shall be the utmost priority and mission of [Insert Jurisdiction] Police Department to protect and serve all individuals of [Insert Jurisdiction] and to respect the inherent life, liberty, dignity, and worth of all individuals by preserving human life, and minimizing physical harm and the reliance on use of force, and by conducting their duties without prejudice.

OFFICER'S RESPONSIBILITY AND COMPLIANCE.
All officers are responsible for knowing and complying with this policy and conducting themselves in a manner aligned with this mission. Any violation of this policy will subject the officer to disciplinary action, including and up to termination and criminal prosecution. Supervisors shall ensure that all personnel in their command know the content of this policy and operate in compliance with it.

II. USE OF FORCE

It shall be the policy of [Insert Jurisdiction] that all law enforcement officers must respect and preserve human life at all times and in all situations.

MINIMAL RELIANCE ON FORCE. Law enforcement officers of [Insert Jurisdiction] Police Department shall only use physical force when no other viable option is available and when all non-physical options are exhausted. (See section, "Alternatives to Use of Force). In all cases where force is used, only the minimum degree of force which is necessary shall be employed. The minimum degree of force is the lowest level of force within the range of objectively reasonable force that is necessary to effect an arrest or achieve a lawful objective. [Model Policy: Buffalo PD Policy , San Francisco PD Policy]

To further the aim of minimal reliance on force, all law enforcement officers must carry on their person at all times at least one less-lethal weapon. [Seattle PD policy]

ALTERNATIVES TO USE OF FORCE. The following is a list of options that may be used instead of physical, non-deadly force [Seattle PD Policy]:

- De-escalation
- Placing barriers between an uncooperative subject and a law enforcement officer
- Containing a threat
- Moving from a position that exposes law enforcement officers to potential threats to a safer position
- Decreasing the exposure to potential threat by using
    - Distance
    - Cover

- The law enforcement officer has exhausted all reasonable alternatives to the use of deadly force, including de-escalation, other reasonable means of apprehending the suspect, defending themselves or others AND;
- The law enforcement officer objectively reasonably believes that using deadly force would not unnecessarily endanger innocent people;

The above circumstances apply to each discharge of a firearm or application of deadly force. Law enforcement officers shall reassess the situation, when feasible, to determine whether the subject continues to pose a current and active threat. A law enforcement officer is not justified in using deadly force at any point in time when there is no longer an objectively reasonable belief that the suspect currently and actively poses an immediate threat of death, even if deadly force would have been justified at an earlier point in time. [St. Petersburg PD Policy, SFPD Policy, and Philadelphia PD Policy]

TACTICS PRECEDING THE USE OF DEADLY FORCE. Law enforcement officers shall not contribute to precipitating the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to de-escalate, withdraw, take cover or reposition, rather than the immediate use of force. The evaluation of an officer's use of deadly force will include consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. [Philadelphia PD Policy, LAPD Policy]

VERBAL WARNING. The law enforcement officer shall issue a verbal warning, when feasible, and have a reasonable basis for believing that the warning was heard and understood by the individual to whom the warning is directed prior to using deadly force against the individual.

PAST CONDUCT. A law enforcement officer shall not use deadly force where the only basis for using the deadly force is that the individual posed a threat of committing, or committed, a serious, violent crime prior to the encounter with police. Law enforcement officers are only authorized to use deadly force against a person who *currently and actively* poses an immediate threat of death to other persons and/or the law enforcement officer.

NO DEADLY FORCE IN CASES OF SELF-HARM ONLY. Under no circumstances may a law enforcement officer use deadly force to prevent an individual from self-harm where the individual does not currently and actively pose an immediate threat of either death to the others or to the law enforcement officer. [SFPD Policy]

MOVING VEHICLES.

- Officers shall not discharge a firearm at or into a moving vehicle unless the occupants of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and such action is necessary for self-defense or to protect the other person; shall not intentionally place themselves in the path of, or reach inside, a moving vehicle; and shall attempt to move out of the path of a moving vehicle.
- Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, SHALL NOT be justification for discharging a firearm at the vehicle or any of its occupants. An officer in the path of an approaching vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants of the vehicle. [Philadelphia PD Policy]

• Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.
• Officers shall not discharge a firearm from his or her moving vehicle. Shooting accurately from a moving vehicle is extremely difficult and therefore, unlikely to successfully stop a threat of another person.
[SFPD Policy]

NECK HOLDS PROHIBITED. Law enforcement officers shall not use chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, chest compressions, or any other tactics that restrict oxygen or blood flow to the head or neck.

**OTHER PROHIBITIONS ON THE USE OF DEADLY FORCE. **

- Law enforcement officers shall not discharge their firearms in defense of property.
- Law enforcement officers shall not use a firearm as a club.
- Law enforcement officers shall not fire warning shots under any circumstances.
- Law enforcement officers shall not discharge their firearms to subdue a fleeing individual who does not currently or actively pose an immediate threat of death to the officers or another person.

Failure to comply with this prohibition is punishable in various ways, including departmental disciplinary action and up to termination and/or criminal prosecution.

DRAWING AND POINTING FIREARMS.

• Law enforcement officers are only authorized to draw their firearms when they reasonably believe there is a current and active immediate threat of death to themselves or another person.
• The pointing of a firearm at a person is a seizure and requires legal justification. No officer shall point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to justify deadly force. If an officer points a firearm at a person, the officer shall, if feasible, safe and when appropriate, advise the subject the reason why the officer(s) pointed the firearm.
• When an officer points any firearm at a person, it shall be considered a reportable use of force. Such use of force must be reasonable under the objective facts and circumstances. [SFPD Policy]

IV. OTHER DUTIES

DUTY TO RENDER MEDICAL ASSISTANCE. All law enforcement officers are required to render and, if necessary, call for medical assistance and other aid to anyone in police custody who the law enforcement officer knows, or has reason to know, is injured, and to anyone who complains of injury. [Baltimore PD Policy]

DUTY TO INTERVENE AND REPORT. All law enforcement officers must intervene when they reasonably believe that a law enforcement officer is using or is about to use unnecessary or excessive force in violation of this mission, and must report the incident to a supervisor. Failure to report incidents involving the use of unnecessary or excessive force will result in disciplinary action. [SFPD Policy]

DUTY TO PREVENT THROUGH EARLY INTERVENTION. The [Insert Jurisdiction] Police Department recognizes that through early intervention it may be possible to avoid the use of excessive force and prevent harm to the community. In this effort, the Department will implement early intervention systems to identity law enforcement officers who are at risk for engaging in the use of excessive force and to provide those law enforcement officers with re-training and appropriate behavioral interventions, re-assignments or other appropriate consequences to eliminate that risk.

V. USE OF FORCE REPORTING AND INVESTIGATIONS

REPORTABLE USES OF FORCE. To promote transparency and accountability of actions involving the use of force against civilians, law enforcement officers shall report any use of force involving physical controls when the subject is injured, complains of injury in the presence of officers, or complains of pain that persists beyond the use of a physical control hold. Officers shall also report any use of force involving the use of personal body weapons, chemical agents, impact weapons, ECWs (i.e. Tasers). vehicle interventions, K-9 bites, and firearms. Additionally, officers shall report the pointing of firearms or ECWs (i.e. Tasers) at a subject.

NOTIFICATION OF USE OF FORCE. An officer shall notify his or her supervisor immediately or as soon as practical of any reportable use of force. A supervisor shall be notified if an officer receives an allegation of excessive force.

EVALUATION OF USE OF FORCE. A supervisor shall conduct a use of force evaluation in all cases involving a reportable use of force.

EXCESSIVE USE OF FORCE. Every allegation of excessive force shall be subject to the reporting and investigative requirements of this policy, [Insert Jurisdiction] Police Department disciplinary policies, and the [Insert Civilian Oversight Structure].

PROCEDURE:

OFFICER'S RESPONSIBILITY. Any reportable use of force shall be documented in detail in an incident report, supplemental incident report, or statement form. Officers shall complete use of force reports fully and truthfully. Descriptions shall be in clear, precise and plain language and shall be as specific as possible. When the officer using force is preparing the incident report, the officer shall include the following information:

- The subject's action allegedly necessitating the use of force, including any threat presented by the subject;
- Efforts to de-escalate prior to the use of force; and if not, why not;
- Any warning given and if not, why not;
- The type of force used;'
- Injury sustained by the subject:
- Injury sustained by the officer or another person;
- Information regarding medical assessment or evaluation, including whether the subject refused;
- The supervisor's name, rank, star number and the time notified.

Each law enforcement officer must submit a report without coaching or assistance from other law enforcement officers present during the incident.

SUPERVISOR'S RESPONSIBILITY. When notified of the use of force, the supervisor shall conduct a supervisorial evaluation to determine whether the force used appears necessary and within the provisions of this policy. The supervisor shall:

- Immediately respond to the scene unless a response is impractical, poses a danger, or where officers' continued presence creates a risk. When more than one supervisor responds, the responsibility shall fall on the senior supervisor;
- Ensure the scene is secure and observe injured subjects or officers;
- Ensure that witnesses (including officers) are identified and interviewed, and that this information is included in the incident report. The number of witnesses may preclude identification and interview of all witnesses, however supervisors shall ensure identification to the best of their ability;
- Ensure photographs of injuries are taken and all other evidence is booked;
- Remain available to review the officer's incident report, supplemental incident report and written statement at the direction of the [Insert Next Rank Officer]. A supervisor shall not approve an incident report or written statement involving a use of force that does not comply with the requirements as set forth above;
- If applicable, ensure the supervisor's reason for not responding to the scene is included in the incident report.
- Supervisors shall complete and submit an evaluation form indicating whether the force used appears reasonable, necessary, and proportional, by the end of shift;
- No supervisor who used, participated in, or ordered reportable force, will conduct the supervisorial evaluation of the incident, unless it is impractical under the circumstances. When a supervisor uses, participates in, or orders reportable force, a [Insert Next Rank Officer] shall determine who will conduct the investigation.

The supervisor shall notify the [Insert Next Rank Officer] and [Insert Civilian Oversight Structure of Jurisdiction] if the supervisor determines that an officer's use of force is:

- Unnecessary, unreasonable, or disproportionate OR;
- Otherwise appears to violate [Insert Jurisdiction] policy OR;
- Results in serious bodily injury or death

POLICE AND CIVILIAN OVERSIGHT INVESTIGATIONS. When notified, the [Insert Next Rank Officer], [Insert Force Investigation Team, if applicable], and an independent investigator from the [Insert Civilian Oversight Structure of Jurisdiction] shall respond to the scene, secure the evidence, initiate on-going investigations into the use of force, and prepare reports to the [Insert Force Review Board and Civilian Oversight Structure] that contain preliminary findings, whether or not the use of force appears to comply with [Insert Jurisdiction] policy, and recommendations.

PROMPT INTERROGATION OF OFFICER(S) INVOLVED

Where an officer's use of force is determined to meet one or more of the conditions specified above, the supervisor will transport the involved officer, if not incapacitated, directly to [Insert Jurisdiction's Internal Affairs Office or Civilian Oversight Structure] for an investigatory interview.

- Officers involved shall be transported separately and shall not be allowed to converse with one another prior to the interview. If additional vehicles are needed; additional supervisors will be summoned to provide transportation.

- At the request of the officer involved, questioning shall be delayed for **no longer than two hours** in order to give the officer an opportunity to consult with a Union representative. [DC Metropolitan Police Policy]
- Officers involved shall not be permitted to review evidence related to or audio/video content depicting the use of force prior to an interrogation. [Oakland PD Policy]

INDEPENDENT CRIMINAL INVESTIGATIONS. Criminal investigations shall be initiated into all uses of force resulting in serious bodily injury or death. In addition, if information is obtained at any stage of the process which suggests criminal conduct involving any other use of force, the [Insert Police Chief or Civilian Oversight Structure] shall initiate a criminal investigation into this conduct. This includes criminal conduct while on duty, or while off-duty if the officer purports to act under the color of law, or commits the offense while using police property, equipment, or weapons. To ensure independence and legitimacy, [Insert Jurisdiction] shall include at least two investigators from [Insert Preferred State, Federal, or Neighboring Law Enforcement Agency or Civilian Oversight Structure, as appropriate] in all criminal investigations of [Insert Jurisdiction] law enforcement officers.

PUBLIC RELEASE OF INFORMATION FOLLOWING POLICE USE OF DEADLY FORCE. A press conference and/or an official press statement will be released by the Police Commissioner or designee within 72 hours of an incident in which an individual was killed or wounded as a result of a use of force by an officer of [Insert Jurisdiction]. The information will include officer's name, years of service, assignment and duty status.

- The release will contain a preliminary summary stating the circumstances of the incident known at the time and based on the facts collected and confirmed by the investigators. The release will provide a brief synopsis of the incident, condition (injuries) of the individual and the proceeding steps of the investigation.
- Names of the individual subject and the officer will be released.
- No information regarding the subject's potential criminal record shall be released unless the officer's disciplinary record is also released simultaneously with this information.
- A preliminary summary based on the facts collected and confirmed by the investigators will be placed on the [Insert Jurisdiction] website. [Philadelphia PD Policy]

DATA COLLECTION AND ANALYSIS. The Department will collect and analyze information on use of force in its database and Early Intervention System. The Use of Force statistics and analysis will include at a minimum:

- The type of force
- The types and degree of injury to suspect and officer
- Date and time
- Location of the incident
- Officer's unit
- District station where the use of force occurred
- Officer's assignment
- Number of officers using force in the incident
- Officer's activity when force was used (ex. Handcuffing, search warrant, pursuit)
- Subject's activity allegedly requiring the officer to use force

- Officer's demographics (age, gender, race/ethnicity, rank, number of years with [Insert Jurisdiction], number of years as a police officer)
- Subject demographics including race/ethnicity, age, gender, gender identity, primary language and other factors such as mental illness, cognitive impairment, developmental disability, drug and alcohol use/addiction and homeless.
- Outcome of any investigation regarding the use of force including any disciplinary actions that were taken as a result.

[SFPD Policy]

- Concealment

• Communication from a safe position intended to gain the subject's compliance, using:
  - Verbal persuasion
  - Advisements
  - Warnings
• Avoidance of physical confrontation, unless immediately necessary (for example, to protect bystander or witness, or stop dangerous behavior)
• Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making
• Calling extra resources to assist or law enforcement officers to assist
  - More law enforcement officers
  - CIT law enforcement officers
  - Law enforcement officers equipped with less-lethal tools
  - Crisis Intervention Team, mental health and other health care professionals
• Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject through less-lethal means

REASONABLE, PROPORTIONAL, AND NECESSARY FORCE. Law enforcement officers shall use physical force only when it is objectively reasonable, necessary, and proportional to effectively and safely resolve a conflict. Force may only be used if and only if doing so is aligned with the Department's mission of preserving life and minimizing physical harm.

In furtherance of these principles, law enforcement officers may use reasonable, proportional force necessary to:

• Lawfully arrest, detain, or search an individual;
• Overcome active physical resistance;
• Prevent escape of an individual who the law enforcement officer has probable cause to believe has committed a serious crime;
• Defend oneself or others from active and actual physical danger;
• To prevent an individual from engaging in acts of self-harm.

Whether a law enforcement officer's use of force is reasonable will be evaluated based on its conformity with the principles and values outlined in this policy. All law enforcement officers must use the least amount of physical force necessary to achieve one or more of the objectives listed above. While recognizing that this is a higher standard than provided by the controlling U.S. law articulated by the Supreme Court, *Graham v. Connor*, 490 U.S. 386 (1989), this policy recognizes that there are situations whereby the use of force – up to and including deadly force – may be considered legally permissible, but not reasonable or necessary given the range of reasonable alternatives available to the law enforcement officer. In doing so, this policy complies with international law and standards and best upholds a commitment to protect and preserve human life. **Compliance with these principles and values will also help to ensure the safety and protection of law enforcement officers by** reducing the need for, and **reliance on, unnecessary physical force.**

FACTORS TO CONSIDER IN USE OF FORCE. The following factors may be used to determine whether the law enforcement officer used the appropriate level of force [LAPD Policy]:

- *The seriousness of the crime or suspected offense.* It will be presumptively unreasonable for a law enforcement officer to use serious physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony. That presumption may be rebutted with evidence that the use of force was justified in light of other factors listed here, among others.
- *The level of threat or resistance presented by the individual.* It will be presumptively unreasonable to use serious physical force against an individual that does not pose a current, active, and immediate threat of death or serious bodily injury[1] to the law enforcement officer or bystanders, or to use force against an individual that is engaged in passive resistance only.
- *The risk of escape.* It will be presumptively unreasonable to use physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony.
- *The conduct of the individual being confronted by the law enforcement officer.* Serious physical force may only be used if the individual acts in a manner than poses a current, active, and immediate threat of death or serious bodily injury to the law enforcement officer or bystanders. Under no circumstances may serious physical force be used to apprehend an individual engaged in passive resistance only.
- *Whether the officer is using force against an individual who appears to be having a behavioral or mental health crisis, a person with a mental illness, or a person who is otherwise in distress.*
- *The time available to a law enforcement officer to evaluate the situation and decide on a course of action.*
- *The availability of other feasible, less intrusive force options;*
- *The ability of the officer to provide a meaningful warning before using force.*
- *Whether the law enforcement officer believes the individual to be in close proximity to a deadly weapon, or a weapon that can inflict serious bodily injury on the law enforcement officer or bystanders.*
- *The tactical conduct and decisions made by the law enforcement officer preceding the use of force.*

LEVELS OF THREAT FROM SUBJECTS.

- *Compliant.* Subject offers no resistance.
- *Passive Resistance.* Does not respond to verbal commands but also offers no physical form of resistance. Expressing an intent to resist is not considered resistance.
- *Active Resistance.* Physically evasive movements to defeat, avoid, or prevent an officer's attempt at apprehension. Expressing an intent to resist an officer's attempt at control is not considered active resistance.

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[1] "Serious bodily injury" means bodily injury that involves (1) a substantial risk of death; (2) protracted and obvious disfigurement; or (3) protracted loss or impairment of the function of a body part, organ, or mental faculty.

• *Assaultive.* Aggressive or combative; actively attempting to assault the officer or another person. Expressing an intent to assault an officer or another person is not considered assaultive under this policy.
• *Life-threatening.* Any action likely to result in serious bodily injury or death of the officer or another person. [SFPD Policy]

LEVELS OF FORCE. Officers shall strive to use the minimum amount of force necessary to accomplish a lawful purpose, including levels of force lower than the level of threat. **Officers shall not, under any circumstances, use a level of force higher than the level of threat.**

• Low Level Force. The level of control necessary to interact with a subject who is or displaying passive resistance or active resistance. This level of force has a low probability of causing injury and includes physical controls such as control holds and other weaponless techniques.
• Intermediate Force. This level of force poses a foreseeable risk of significant injury or harm, but is unlikely to cause death. Intermediate force will only be authorized when officers are confronted with active or assaultive aggression and an immediate threat to the safety of officers or others. Certain force options such as OC spray, impact projectiles, and baton strikes are intermediate force likely to result in significant injury.
• Deadly Force. Any use of force substantially likely to cause serious bodily injury or death, including but not limited to the discharge of a firearm, the use of an impact weapon under some circumstances, other techniques or equipment, and certain interventions to stop a subject's vehicle.
[SFPD Policy]

DE-ESCALATION. Prior to using physical, non-deadly and/or deadly force, all law enforcement officers must use proper de-escalation techniques to decrease the likelihood that law enforcement officers will resort to force and to increase the likelihood of cooperation between law enforcement officers and members of the public. [SFPD Policy, NOPD Policy]

Law enforcement officers shall employ effective communication techniques to engage with individuals who are not compliant with orders by establishing rapport, using the appropriate voice intonation, asking questions and providing advice to defuse conflict and achieve voluntary compliance before resorting to force options. [SFPD Policy]

Where feasible, all law enforcement officers must determine whether an individual's failure to comply with an order is the result of one of the following factors [Seattle PD Policy]:

• Medical conditions;
• Mental impairment;
• Developmental disability;
• Physical limitation;
• Language barrier;
• Drug interaction;
• Behavioral crisis; and
• Other factors beyond the individual's control

After evaluating whether the individual's failure to comply with an order is based on one of the factor's listed above, the law enforcement officer must then determine whether physical force, and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner.

Under no circumstances may a law enforcement officer use force on an individual for insolence, or for running away where the individual does not pose a current, active, and immediate threat to the safety of bystanders, other law enforcement officers, or the primary law enforcement officer. [Settlement Agreement between the U.S. DOJ and Cleveland PD]

CRISIS INTERVENTION TEAM. When feasible, a Crisis Intervention Team (CIT) consisting of both mental health providers and CIT trained law enforcement officers shall respond to calls for service involving individuals known or suspected to have mental illness or who appear to be in mental or behavioral health crisis. [SFPD policy]

SUBJECT ARMED WITH A WEAPON - NOTIFICATION AND COMMAND. In situations where a subject is armed with a weapon, officers and supervisors shall comply with the following:

- Upon being dispatched to or on-viewing a subject with a weapon, an officer shall call a supervisor as soon as feasible.
- When notified that officers are dispatched to or on-view a subject armed with a weapon, a supervisor shall as soon as feasible:
    - Notify DEM, monitor radio communications, respond to the incident (e.g., "3X100, Fin monitoring the incident and responding.);
    - Notify responding officers, while en-route, to protect life, isolate and contain the subject, maintain distance, find cover, build rapport, engage in communication without time constraint, and call for appropriate resources;
    - Upon arrival, where appropriate, the supervisor shall assume command, and ensure appropriate resources are on-scene or are responding.
    - Officers and supervisors shall factor into their approach the possibility that a subject suspected of being armed with a weapon is, in fact, unarmed or carrying an object other than a weapon.

[SFPD Policy]

III. USE OF DEADLY FORCE

The most serious act in which a police officer can engage during the course of their official duties is the use of deadly force. The authority to carry and use firearms in the course of public service is an immense power, which comes with great responsibility. It shall be the policy of the [Insert Jurisdiction] Police Department that law enforcement officers shall NOT use deadly force against another person unless ALL of the following conditions are met:

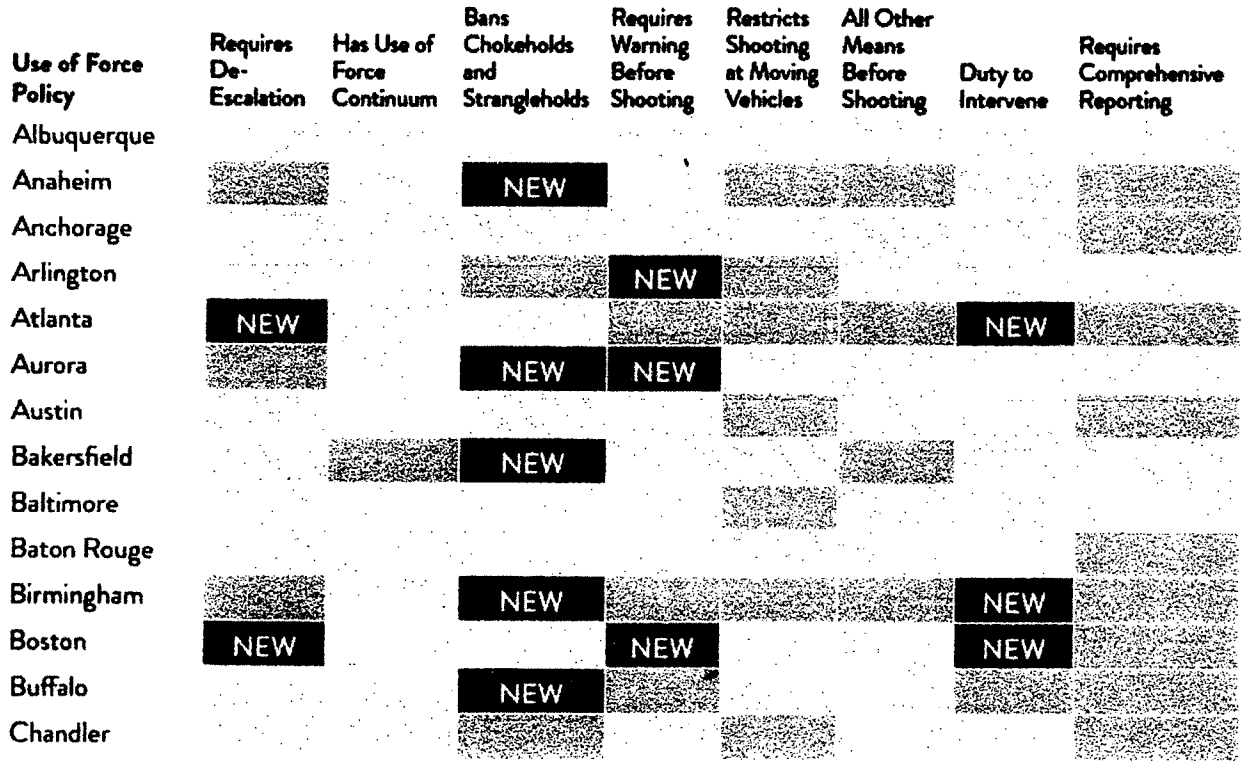
- The law enforcement officer has an objectively reasonable belief that deadly force is necessary to protect themselves or another person from a subject who is posing a current, active, and immediate threat of death AND;

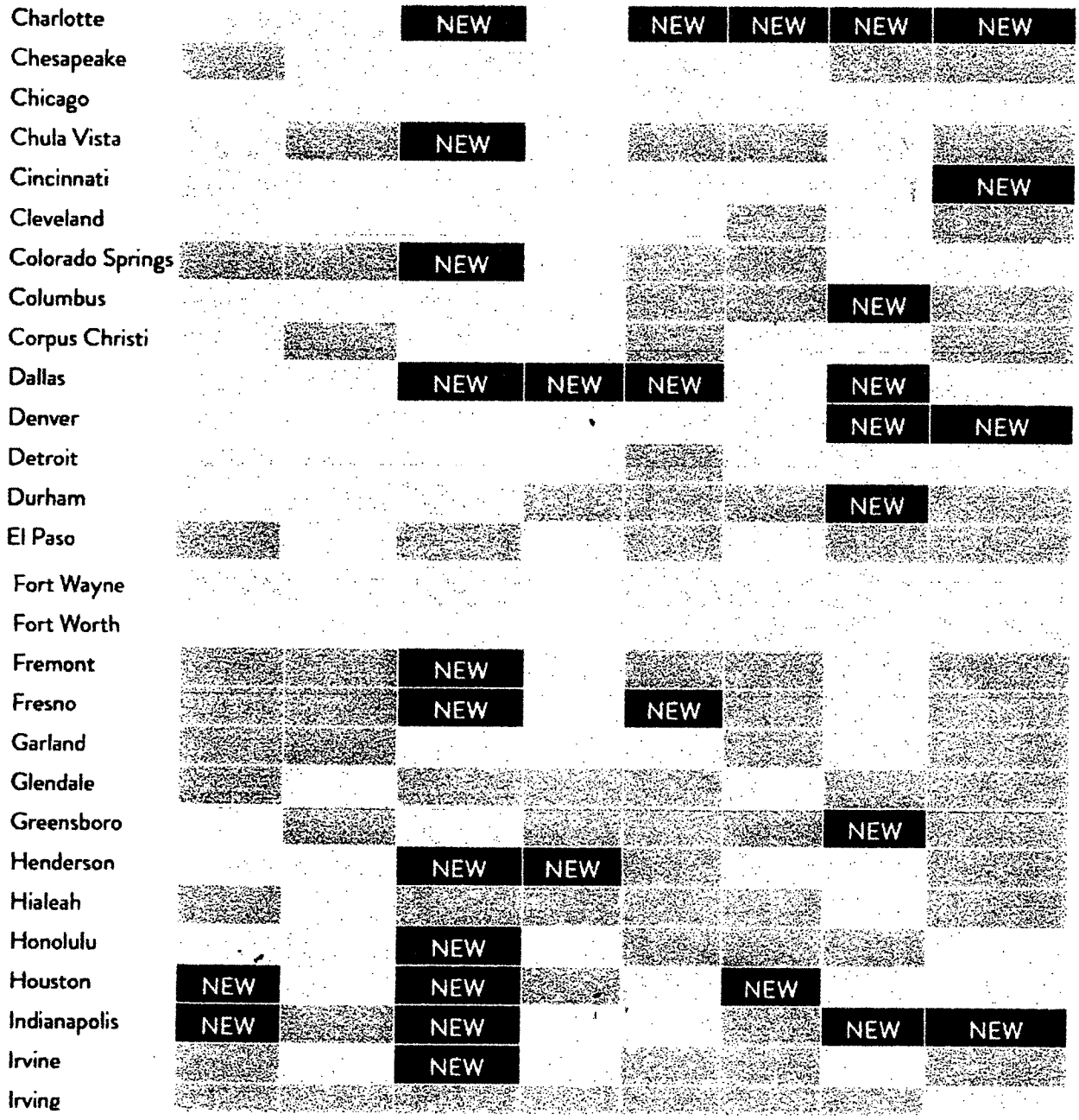
Cities With Policies Recommended by 8 Can't Wait

https://8cantwait.org/compare/

New Yes since 6/20/20 | Yes | No | Under Review

Highlighted cities have adopted more restrictive policies since June 2020.

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Fort Wayne
Fort Worth
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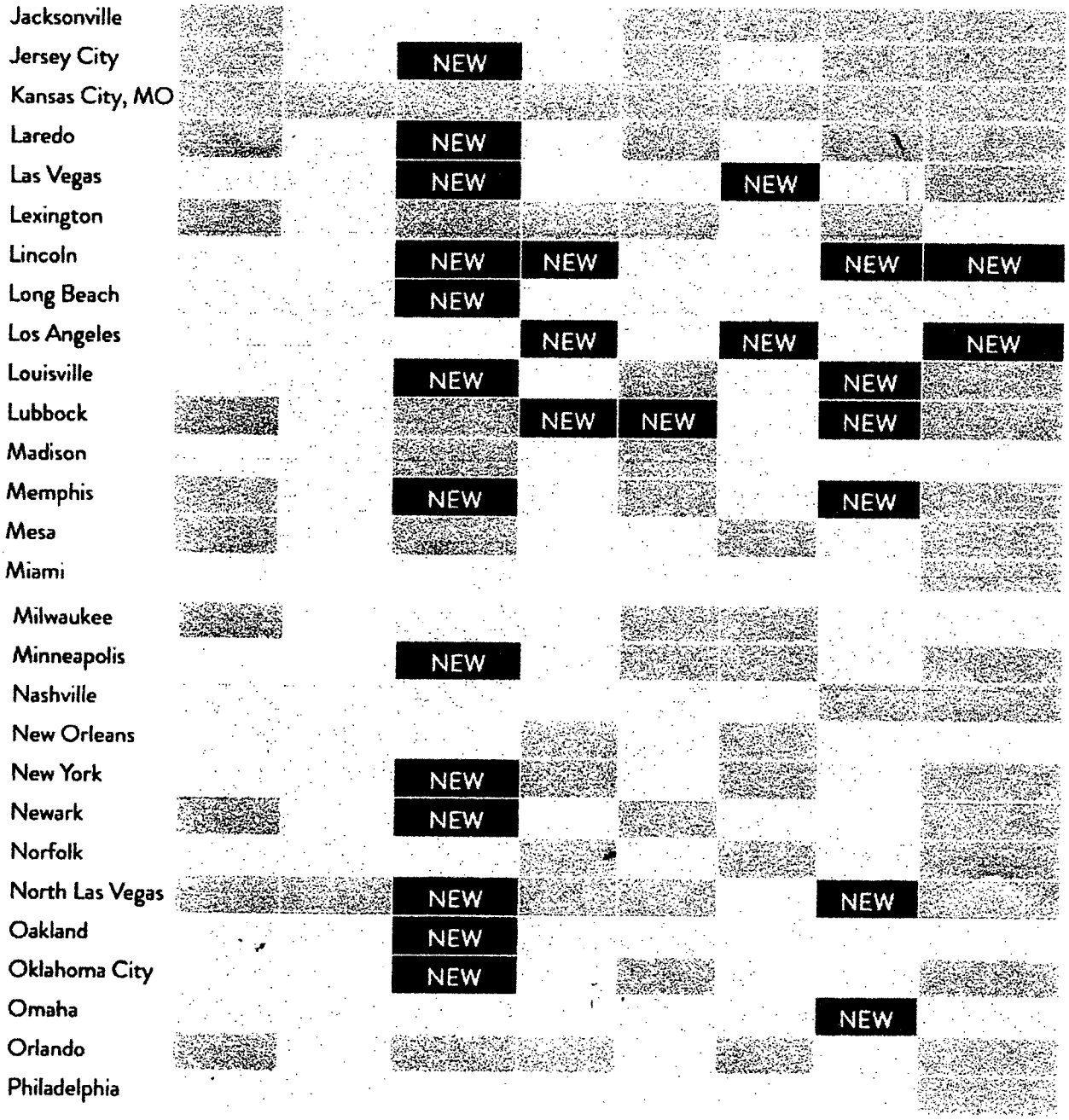
NEW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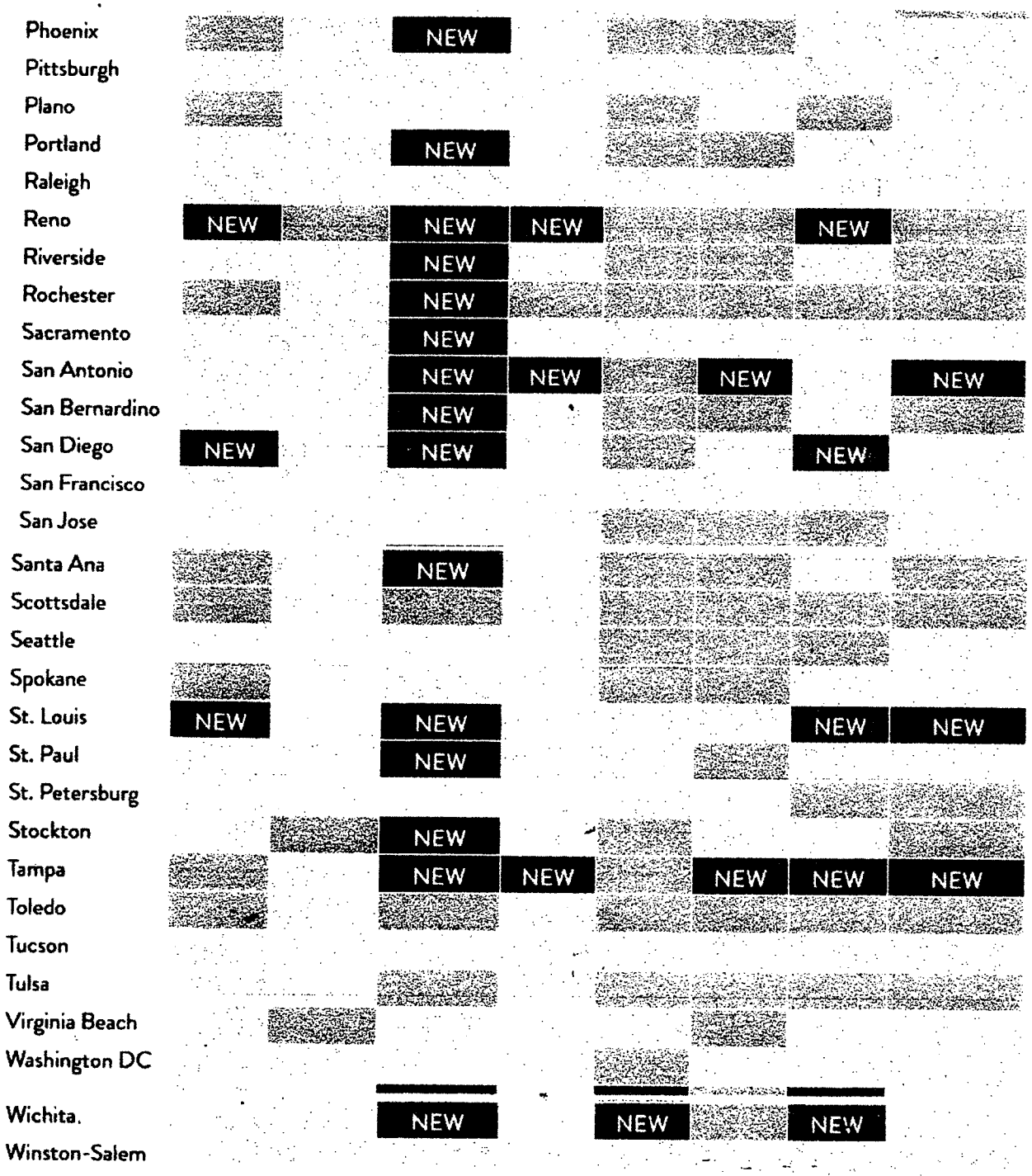
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St. Louis
St. Paul
St. Petersburg
Stockton
Tampa
Toledo
Tucson
Tulsa
Virginia Beach
Washington DC
Wichita.
Winston-Salem
NEW

Gmail

Bill Federice <federicebill@gmail.com>

Law enforcement review

Bill Federice <federicebill@gmail.com> Mon, Nov 23, 2020 at 11:07 AM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>
Cc: Patricia Hults <Hultsp@outlook.com>

---------- Forwarded message ---------
From: **Wendy Cook** <wcook001@luthersem.edu>
Date: Mon, Nov 23, 2020 at 11:02 AM
Subject: Law enforcement review
To: Bill Federice <federicebill@gmail.com>, <Ronald.stevens@co.schoharie.ny.us>

November 21, 2020

To: Sheriff Stevens, Mr. Federice, and Law Enforcement Review Committee Members

I would like to follow up on the Committee meeting of Tuesday, the 17th. (I apologize for my tardiness. I mistakenly went to the Howes Cave facility first.) Please note that this letter represents only my own personal views and suggestions.

I greatly appreciate the professionalism, pride and care evidenced by the law enforcement officers at the meetings I have attended. Your job is not easy. I have great respect for and confidence in the care and commitment you bring to it every day. At the meeting last week I especially appreciated hearing your forthright perspectives, such as on the mostly law-abiding community you serve, the challenges of hiring academically and personally qualified officers, holding officers accountable, distinctions between large urban and small rural departments, and your sincere desire to be the best agency you can be. That's what we all want!

I would like to offer some concerns for consideration as the Committee moves forward on implementing EO203. The first concerns regard Lexipol. Lexipol pitches its policy products as successfully protecting law enforcement departments and governing bodies (i.e. Schoharie County) from lawsuits. One strategy Lexipol uses is to write policies that describe legal standards without providing specific operational guidance. Officers cannot then be held accountable because there is no specific behavior to hold them accountable to; it's all subjective interpretation.

Additionally, I am concerned about research that indicates Lexipol policies do not support de-escalation strategies and regulation of use of force. It seems to me that these are precisely the tools needed to prevent life-threatening situations. I fear it is naive to assume that officers will know, remember and use these tools if that is not an explicit policy. Related to that, I also do not think 3-minute quickie training bites can provide the necessary focus for keeping officers sharp.

The last Lexipol concern I will mention is administrative. I have been told that local departments can "tweak" the Lexipol standard policy. However, the updates that Lexipol issues do not take local changes into account and instead simply replace, and therefore lose, the locally devised clauses.

Secondly, Sheriff Stevens, I believe you asked for specific use of force policy concerns from the public. I invite you to check out the website useofforceproject.org. This project studied policies and correlations to police violence. It found eight components that were effective in reducing occurrences of police-involved killings. To the local community's credit, Cobleskill Police General Orders already include five of the eight. I have not seen Sheriff's Department policies, but I will presume the protocols are similar.

The most imperative use of force component missing from local written policies is a defined force continuum that instructs officers on best practices. This sets a higher standard than the long-held Graham v. Connor "objective reasonableness". I believe a higher standard is not only possible, but necessary in these more enlightened times. I therefore suggest for consideration the attached policy (adapted from NAACP and Campaign Zero sources) at the end of this letter.

I offer use of force as a starting point but there are also other policy subjects of concern, including but not limited to:

1. Transparency, including the prompt release of body cam footage, electronic records, reports and officer files, when/if there are incidents of police violence.
2. Officers must be meaningfully trained on department policies and the policies must be enforced by leadership from the top–down, thus establishing a culture of accountability.

In closing, let me repeat that I believe the Sheriff's Department is, on the whole, hardworking, conscientious, and honest, not to mention NEEDED. With the community input mandate of EO203, we have a golden opportunity now to ensure that we have the best possible Department policies, especially given that the previous policy manual was lost in the flood of 2011. Thank you for your attention to my concerns set forth here.

Sincerely,

Wendy Cook
612-554-7295
wcook001@luthersem.edu
109 Anthony Circle, Cobleskill

Use of Force Policy

A. *Minimal Reliance on Force.* Law enforcement officers shall only use physical force when no other viable option is available and when all non-physical options are exhausted. In all cases where force is used, only the minimum degree of force necessary shall be employed. The minimum degree of force is the lowest level of force necessary to effect an arrest or achieve a lawful objective. To further the aim of minimal reliance on force, all law enforcement officers must carry on their person at all times at least one less likely to be lethal weapon.

B. *Continuum of Use of Force.*

1. De-escalation options –
   - Placing barriers between an uncooperative subject and a law enforcement officer
   - Containing a threat
   - Moving from a position that exposes law enforcement officers to potential threats to a safer position
   - Decreasing the exposure to potential threat by using:
     - distance
     - cover
     - concealment
   - Communication from a safe position intended to gain the subject's compliance, calm an agitated subject, and promote rational decision-making:
     - verbal persuasion
     - advisements
     - warnings
   - Avoidance of physical confrontation, unless immediately necessary (e.g., to protect a bystander or witness, or stop dangerous behavior)
   - Calling extra resources to assist or law enforcement officers to assist
   - Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject through less likely to be lethal means
2. Empty-hand control using bodily force to gain control of a situation –
   - Soft technique: grabs, holds and joint locks to restrain an individual

- Hard technique: punches and kicks to restrain an individual

3. Less likely to be lethal methods –
   - Blunt impact: use of a baton or projectile to immobilize a combative individual
   - Chemical: use of chemical sprays or projectiles embedded with chemical to restrain an individual (e.g., pepper spray)
   - Conducted energy devices: use of a device discharging a high-voltage, low-amperage jolt of electricity at a distance
4. Lethal force – a measure of last resort that is permissible only if a suspect poses an immediate threat to life or great bodily injury or to prevent an arrest from being defeated by resistance or escape and the person poses an immediate threat of death or great bodily harm unless arrested without delay
   - Serious bodily injury means bodily injury that involves a substantial risk of death; protracted and obvious disfigurement; or protracted loss or impairment of the function of a body part, organ, or mental faculty.

C. *Factors to Consider in Use of Force.*

1. The seriousness of the crime or suspected offense. It will be presumptively unreasonable for a law enforcement officer to use serious physical force against an individual who the law enforcement officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony. That presumption may be rebutted with evidence that the use of force was justified in light of other factors listed here, among others.
2. The level of threat or resistance presented by the individual. It will be presumptively unreasonable to use serious physical force against an individual that does not pose a current, active, and immediate threat of death or serious bodily injury [defined at B.4. above] to an officer or bystanders, or to use force against an individual that is engaged in passive resistance only.
   - Compliant – subject offers no resistance.
   - Passive resistance – subject does not respond to verbal commands but also offers no physical form of resistance. Expressing an intent to resist is not considered resistance.
   - Active resistance – subject makes physically evasive movements to defeat, avoid, or prevent an officer's attempt at apprehension. Expressing an intent to resist an officer's attempt at control is not considered active resistance.
   - Assaultive – subject is aggressive or combative, actively attempting to assault the officer or another person. Expressing an intent to assault an officer or another person is not considered assaultive.
   - Life-threatening – any action likely to result in serious bodily injury [defined at B.4. above] or death of the officer or another person.
3. The risk of escape. It will be presumptively unreasonable to use physical force against an individual who the officer believes or has reason to believe committed a traffic or ordinance violation, misdemeanor, or non-violent felony.
4. The conduct of the individual being confronted by the officer. Serious physical force may only be used if the individual acts in a manner that poses a current, active, and immediate threat of death or serious bodily injury to the officer or bystanders. Under no circumstances may serious physical force be used to apprehend an individual engaged in passive resistance only.
5. Whether the officer is using force against an individual who appears to be having a behavioral or mental health crisis, a person with a mental illness or a person who is otherwise in distress.
6. The time available to an officer to evaluate the situation and decide on a course of action.
7. The availability of other feasible, less intrusive force options.
8. The ability of the officer to provide a meaningful warning before using force.
9. Whether the officer believes the individual to be in close proximity to a deadly weapon, or a weapon that can inflict serious bodily injury [defined at B.4. above] on the officer or bystanders.
10. The tactical conduct and decision made by the law enforcement officer preceding the use of force.

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

NYSAC EO 203 Article

1 message

Bill Federice <federicebill@gmail.com> Thu, Nov 12, 2020 at 3:11 PM
To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>

Attached is an article from the New York State Association of Counties I thought you might find helpful. It contains pretty much what we already know but it lays out the process for EO 203 in one place and on one page.

--
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

NYSAC EO 203 Article.pdf
2035K

Executive Order No. 203

Next Steps: New York State Police Reform and Reinvention Collaborative



By Patrick Cummings, NYSAC Counsel

On June 12, 2020, Governor Cuomo signed Executive Order No. 203 in response to tragic deaths involving police interactions. The Executive Order states that it was created in part due to "...the police-involved death of George Floyd in Minnesota, protests have taken place daily throughout the nation and in communities across New York State in response to police-involved deaths and racially-biased law enforcement to demand change, action, and accountability." Ultimately, the purpose of EO 203 is to create changes in local law enforcement policies and strategies to mitigate police-involved deaths and racially biased law enforcement. The following is a breakdown of the steps required by EO 203 to achieve these goals.

Executive Order 203 has four steps that must be followed by all New York local governments that have policing entities:

REVIEW - EO 203 calls on any local government policing entity, to perform a review of current "police force deployments, strategies, policies, procedures, and practices." This can be an internal review, or this process can involve input or help form outside entities. The main purpose is come out of this step with the complete understanding of what the current police policies and procedures are, and how exactly are they are being implemented by the department and in the community; what is working and why, what is not and why. One tool to help this compressive review can be by the 117-page guidelines put out by Governor's Office found at on.ny.gov/2G7BCvt.

PLAN DEVELOPMENT- After or in coordination of such review, the Chief Executive of any local government with a local police agency must convene the head of the local police agency, and stakeholders in the community to develop such plan. The stakeholders (defined below) must be consulted with and allowed to make recommendations when creating such plan. This step is for community, police, and all criminal justice stakeholders to have a seat at the table to provide input. Ultimately it will be the Chief Executive that puts together and presents the reform plan to the local legislature; however, this will be done with input of the groups listed above and input can take many forms including taking suggested plan language.

ADOPTION OR RATIFICATION OF PLAN- Such plan must be offered for public comment to all citizens in the locality, and after consideration of such comments, the local legislative body in such political subdivision, which shall ratify or adopt such plan by local law or resolution. The local legislature body may reject a plan as written and this would restart Step 2; however, a plan must be ratified no later than April 1, 2021.



SUBMIT PLAN TO DOB- Such local government shall transmit a certification to the Director of the Division of the Budget to affirm that such process has been complied with and such local law or resolution has been adopted.

Who are Stakeholders:

Stakeholders include, but are not limited to, membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police/community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials.

What Police Entities are Subject to EO 203

Executive Order 203 applies only to local governments that have a police agency operating with police officers. For most counties, employees with police powers are typically within the Sheriff's Department. However, it is important to review the police power list defined under 1.20 of the Criminal Procedure Law to see if your county has any other employees that would be subject to this process, plan review and adoption.

The last several years have seen a dizzying pace of change in the field of law enforcement. From Raise the Age and Bail Reform legislation, to the decriminalization and potential legalization of recreational cannabis, the law enforcement landscape in New York State is evolving rapidly. As we navigate these changes, NYSAC will continue to provide our members with analysis of these laws and guidance tailored to your needs as a county leader.

Gmail **Bill Federice <federicebill@gmail.com>**

LERC comment

4 messages

stinson <stinson@midtel.net> Tue, Oct 20, 2020 at 8:50 AM
To: "federicebill@gmail.com" <federicebill@gmail.com>

20 October 2020

Law Enforcement Review Committee,

The listing published on the County web page indicates that the Law Enforcement Review Committee is responding to some of the specific areas identified by the Governor's Executive Order #203. I note however that another important requirement has been overlooked. See the following few lines from page two of the Executive Order:

"...review of current police force deployments, strategies, policies, procedures, and practices. ...promote community engagement to *foster trust, fairness, and legitimacy*...shall consider evidence-based policing strategies, including but *not limited to, use of force*..." And, "...must consult with stakeholders, including but not limited to...members of the community...promotion of improved police agency and community relationships based on *trust, fairness, accountability and transparency*..." *(emphasis added)*

Those last two words, accountability and transparency, are my interest and the subject of this communication. I offer the following for your consideration:

Report of the President's Task Force on 21st Century Policing (2015 recommended reading)

Pillar 1. Building Trust & Legitimacy:

1.3 Recommendation: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.

1.3.1 Action Item: To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department's website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

1.3.2 Action Item: When serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

1.5.1 Action Item: In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.

My specific recommendations:

The Law Enforcement Review Committee (LERC) must include a significant number of community representatives with responsibility to contribute to the committee's findings. This is necessary in order for citizens to accept its legitimacy and to respect it's recommendations.

The LERC must deal honestly with transparency and accountability issues throughout county government including: the Board of Supervisors, relevant sub-committees, Sheriff's Department, and District Attorney's office.

The New York State Attorney General's Special Investigations and Prosecutions Unit as well as the State Police Collision Reconstruction Unit, proffered as "independent" investigators in police involved incidents, have failed us in recent years. LERC's findings should take note of these failures and communicate to the Governor a demand for greater oversight of these agencies.

LERC must consider how citizen participation in police conduct oversight might be accomplished. There are several models in other jurisdictions which can provide guidance. Lacking a formal system of community police oversight, whatever reforms might be imagined will be negated. Without such oversight community trust, belief of fairness, and legitimacy will be difficult to achieve.

Wayne Stinson

Summit, NY

Bill Federice <federicebill@gmail.com> Tue, Oct 20, 2020 at 10:10 AM
To: stinson <stinson@midtel.net>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@middleburghcsd.org>, Becky Stanton <mayor@cobleskill.org>

Mr. Stinson, I am well aware of the contents of Executive Order 203. I can assure you we will be listening to our community and we will address any comments, questions and/or concerns that fall within the assignment given us by the Governor.

However, to engage in those discussions, it is imperative all parties first have the opportunity to hear and hopefully understand, not necessarily agree with, the processes, policies and/or practices of the Schoharie County Sheriff's Department and those areas that are involved in the criminal justice system. That initial portion of the process is near completion. I anticipate we will begin addressing very soon some or all the items, as well as others, you bring up in your email. The process will be thoughtful, deliberate, and thorough and no one in our community will be denied the opportunity to voice their concerns, questions and suggestions. Anyone making that assertion is uninformed.

Lastly, we are committed to the mission given us by the Governor. The completion date specified by Executive Order 203 is March 31st. The Committee will complete our assignment by that time.

[Quoted text hidden]

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Stephen Weinhofer <Stephen.Weinhofer@middleburghcsd.org> Tue, Oct 20, 2020 at 11:28 AM

To: Bill Federice <federicebill@gmail.com>

Bill,
Somehow I'm receiving your emails on my school email. Can you please check the address and use my County email.
Thanks,
Steve

From: Bill Federice <federicebill@gmail.com>
Sent: Tuesday, October 20, 2020 10:10 AM
To: stinson <stinson@midtel.net>
Cc: Bruce Baker <bruce.baker@co.schoharie.ny.us>; Candace Ellis <candacee@ccalbany.org>; Dick Lape <lapelspc@midtel.net>; Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>; Harold Vroman <haroldvroman@aol.com>; John Leavitt <john.leavitt@co.schoharie.ny.us>; Pastor Ray Richards <pastorray@cagcobleskill.org>; Peggy Hait <jeffersontwnsup@gmail.com>; Ron Stevens <ronald.stevens@co.schoharie.ny.us>; Stephen Weinhofer <Stephen.Weinhofer@MiddleburghCSD.org>; Becky Stanton <mayor@cobleskill.org>
Subject: Re: LERC comment

[Quoted text hidden]

Bill Federice <federicebill@gmail.com> Tue, Oct 20, 2020 at 11:55 AM
To: Stephen Weinhofer <Stephen.Weinhofer@middleburghcsd.org>

No problem at all.

[Quoted text hidden]

Gmail Bill Federice <federicebill@gmail.com>

Executive Order 203 community review

6 messages

Wendy Cook <wcook001@luthersem.edu> Mon, Oct 19, 2020 at 7:27 PM
To: Richard.lapeA@co.schoharie.ny.us, federicebill@gmail.com, Ronald.stevens@co.schoharie.ny.us

Mr. Federice, Mr. Lape, and Sheriff Stevens,

Re-posted below is the letter sent to you via email on September 29, 2020. We have not received a response. This is to let you know that we are still very interested in obtaining this information and hope that you will provide it within the next two weeks. Thank you, in advance.

Wendy Cook

Sent on September 29, 2020 to:
William Federice, Chair of Schoharie Board of Supervisors
Richard Lape, Chair of Law Enforcement, Judicial Committee
Ron Stevens, Schoharie County Sheriff

We are Schoharie County citizens interested in the local (including Schoharie County) implementation of Executive Order 203. Four of us attended the September meeting of the Law Enforcement, Judicial Committee of the Schoharie County Board of Supervisors; two of us attended (and one listened via streaming) the first breakout meeting, highlighting the LEAD program.

Thank you for taking seriously the law enforcement review called for by Executive Order 203. A fair, just legal system is vital to our safety and integral to our democracy, and local law enforcement policies and practices are the foundation to a just legal system. It is well-documented and researched that the legal system in America is tainted by racism. The fact that Schoharie County is overwhelmingly white does not excuse us from ensuring local law enforcement is fair for all, including however many or few people of color live here. So, again, thank you for taking seriously the law enforcement review currently underway. We would like to work with you to define the best policies for Schoharie County.

It is our understanding that the plan is to undertake a review of additional specific components of current programs and policies at bimonthly meetings of the Law Enforcement, Judicial Committee. We would like to participate, and ensure that the following questions are addressed.

1. What specific components are still to be reviewed and when is each slated to be discussed? We are especially interested in policies regarding:
- use of force -- a total ban on chokeholds, strangleholds and hog ties; clearly defined gradient of use of force; mandatory reporting of each use of, or threat to use, force

- traffic stops -- cause for a stop should not simply be the condition of the car or the race of the driver and/or occupants; body cameras should record all stops; sobriety tests should be recorded
- civilian review board -- must be provided with a budget and investigating power
- transparency following an incident -- prompt public access to body camera recordings, video, reports and other information (after a reasonable time to review for witness preservation)
- qualified immunity -- permit civil lawsuits to hold officers accountable for their actions

2. How are you planning to invite and include widespread community input on current practices of the Schoharie County Sheriff's office? Specifically, including input from people of color is fundamental to eliminating racism in the law enforcement policies and practices in Schoharie County.

3. When and how will community input be sought on the policy reforms proposed by Lexipol? Will Lexipol seek community input before it drafts policies for Schoharie County? Will the County seek community input before adopting the policies proposed by Lexipol? It is important that sufficient time before the deadline of April 1, 2021, be allotted for community involvement in the final form of the revisions.

Sheriff Stevens, to begin our own understanding of possible revisions, we would appreciate obtaining a copy of the current manual of Schoharie County Sheriff's Department policies. What is the best way to obtain this?

Thank you for all you do on behalf of the safety of Schoharie County residents. Your work is important and appreciated.

With Gratitude,

Wendy Cook
Debbie Paden
Theresa Heary
Pat Hults
Bobbi Wilding
Alyson Montione

Bill Federice <federicebill@gmail.com> Mon, Oct 19, 2020 at 10:30 PM
To: Wendy Cook <wcook001@luthersem.edu>
Cc: Richard.lapeA@co.schoharie.ny.us, Ron Stevens <Ronald.stevens@co.schoharie.ny.us>

Ms. Cook, we will address the points in your email at the meeting tomorrow.

[Quoted text hidden]

--

Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Mon, Oct 19, 2020 at 10:30 PM
To: federicebill@gmail.com



Message blocked

Your message to **Richard.lapeA@co.schoharie.ny.us** has been blocked. See technical details below for more information.

The response from the remote server was:

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550 5.4.1 Recipient address rejected: Access denied. AS(201806281)
[DM3GCC02FT004.eop-gcc02.prod.protection.outlook.com]
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Final-Recipient: rfc822; Richard.lapeA@co.schoharie.ny.us
Action: failed
Status: 5.4.1
Remote-MTA: dns; co-schoharie-ny-us.mail.protection.outlook.com.
(104.47.65.110, the server for the domain co.schoharie.ny.us.)
Diagnostic-Code: smtp; 550 5.4.1 Recipient address rejected: Access denied. AS(201806281)
[DM3GCC02FT004.eop-gcc02.prod.protection.outlook.com]
Last-Attempt-Date: Mon, 19 Oct 2020 19:30:35 -0700 (PDT)

---------- Forwarded message ---------
From: Bill Federice <federicebill@gmail.com>
To: Wendy Cook <wcook001@luthersem.edu>
Cc: Richard.lapeA@co.schoharie.ny.us, Ron Stevens <Ronald.stevens@co.schoharie.ny.us>
Bcc:
Date: Mon, 19 Oct 2020 22:30:23 -0400
Subject: Re: Executive Order 203 community review
----- Message truncated -----

Bill Federice <federicebill@gmail.com> Mon, Oct 19, 2020 at 10:33 PM
To: Dick Lape <lapelspc@midtel.net>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>

We should chat about this tomorrow before the meeting. We need to ensure we talk to the points brought up in Ms. Cook's email.

[Quoted text hidden]
---------- Forwarded message ---------
From: Bill Federice <federicebill@gmail.com>
To: Wendy Cook <wcook001@luthersem.edu>

Cc: Richard.lapeA@co.schoharie.ny.us, Ron Stevens <Ronald.stevens@co.schoharie.ny.us>
Bcc:
Date: Mon, 19 Oct 2020 22:30:23 -0400
Subject: Re: Executive Order 203 community review
----- Message truncated -----
[Quoted text hidden]

Wendy Cook <wcook001@luthersem.edu> Mon, Oct 19, 2020 at 11:13 PM
To: Bill Federice <federicebill@gmail.com>

Thank you, Mr. Federice!

Wendy
[Quoted text hidden]

Gmail

Bill Federice <federicebill@gmail.com>

E.O. 203 correspondence

3 messages

Robert Kerley <universalhealthydevelopment@gmail.com> Fri, Oct 16, 2020 at 12:19 PM
To: federicebill@gmail.com, Peacemakers <peacemakes@yahoogroups.com>, TJ <tjournalnews@yahoo.com>, cseiler@timesunion.com, robin.dalton@saratoga-springs.org, Michele.Madigan@saratoga-springs.org, mayor@cobleskill.org

Good morning Chairman Federice,

I am including my October 15 letter to Village of Cobleskill mayor Rebecca Stanton-Terk. It illuminates general and regional social conditions I believe shape our contemporary sociopolitical environment and all E.O. 203 processes. It is somewhat self-reflexive, and features language and concepts foundational to a universal human development platform. To extend from my last paragraph, Schoharie County could really be a verdant and life-affirming, best community, and the same for every single other place in this country.

Sincerely,

Robert Kerley
1098 Bear Ladder Road
West Fulton, NY 12194
(518) 827-8103

Good afternoon Mayor Stanton-Terk,

Thank you for reaching out. I am currently considering my own thoughts on Andrew Cuomo's listed policy points, and will let you know when I formulate them. Please read ahead if you have the time.

What I am more concerned about right now are the mathematical power plays at work in our society and involving the police in general (not just local agencies and agencies inside NYS). The police occupy the (computational-mathematical) social and guild station they are in because of a larger primitive hierarchy of the society. The greater society remains dysfunctional and unable to maturely manage their own affairs as an economically advanced, first world democratic society. They turn to the police, who play a role of "ground managers" inside the dysfunctional system, like an overseeing responsible sibling in a family role system. The police get nearly free rein of the allegorical house, but like the rest of the family, they don't ever rise to mature self-actualization as full members of the advanced society they live in (although many are recognizing this and trying).

My own role in social action is dysfunctional and primitive, because I play something like an archaic "neighborhood steward" or street captain who champions the voiceless masses as they toil in the coal mines. Except, there's no mines, and our communities are largely middle class and educated and fully capable of speaking for themselves. We live in the most powerful and wealthy (and ultimately democratic) society on earth, and its social regressions are just that-- psychological withdrawals from mature and civilized functioning.

I hypothesize that a passive and unintended "payroll cabal" exists locally in the Capital District. The metropolitan regional economy is so dependent on government sectoral work that it fosters a "silent monolith" among the middle class. The dysfunctional social system is passively accepted, because it is misinterpreted as keeping the public sector flush with (misperceived) scarce work, and the region lacks the confidence to envision its own future and recover itself through development of a healthy, balanced economy and metropolitan society.

A fully mature stance for the greater American society would be to maintain healthy, robust, and supportive bureaucracies that seek developmental best practices for the society, but also develop fully encompassing, supportive and equitable social economies, as nearly all of the rest of the first world has done since about 1965. It's the U.S. that is practicing primitive hierarchy and hegemony, not the other way around as is falsely parroted within the nation's internal rhetoric. Cobleskill could be a verdant and form-perfect community and life center, same for every single other community in this country.

Sincerely,

Robert Kerley
1098 Bear Ladder Road
West Fulton, NY 12194
(518) 827-8103

Bill Federice <federicebill@gmail.com> Fri, Oct 16, 2020 at 3:55 PM
To: Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@middleburghcsd.org>, Bruce Baker <bruce.baker@co.schoharie.ny.us>, duane.tillapaugh@co.schoharie.ny.us

FYI

[Quoted text hidden]

--

Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

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http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Lexipol story

4 messages

stinson <stinson@midtel.net> Fri, Oct 9, 2020 at 11:11 AM
To: mayor@cobleskill.org, "federicebill@gmail.com" <federicebill@gmail.com>

Mayor Turk,Bill,

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Regarding the Coblskill Roldan case officer Sniffen was let off the hook by the State AG in part due to a lack of specificity within the police department's rules and procedures (https://scfpg.blogspot.com/p/gerard-roldan-homicide.html - scroll down to "From the AG Report Recommendations.")

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Madison PaulySeptember/October 2020 Issue

https://www.motherjones.com/crime-justice/2020/08/lexipol-police-policy-company/

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FYI...

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From: **stinson** <stinson@midtel.net>
Date: Fri, Oct 9, 2020 at 11:11 AM
Subject: Lexipol story
To: <mayor@cobleskill.org>, federicebill@gmail.com <federicebill@gmail.com>

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Good Afternoon Wayne and Friends,

I just had electricity restored on my road after a lengthy outage, so I can put away the parchment and pigeons. I'm backed up with emails, so I will attempt to address several ongoing threads here--

The new fiber optic digital phone service (which runs off point-of-use AC transformed to DC, not DC through the phone line like regular copper) is vulnerable to failure during power outages. The power failed here at about 4:00PM, the battery backup (a little battery box next to the digital interface box) kicked on, and failed overnight (about 12 hours later) with only 5 minutes of total phone usage and 1 of 2 landlines unplugged for local DC conservation at the jacks. The power

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I would likewise question the wisdom of local municipalities paying Lexipol or any other similar outfit a nickel. They're not just a consultant, as apparently these firms retain material copyright but assume no content liability. The village of Cobleskill was convening a special board meeting for entry into executive session a couple of weeks ago, and I assume it revolved around the potential retaining of Lexipol, which appears to be something of a wonder-boy in these matters right now. I assume local municipalities are taking a line of thought that, once the lawsuits pile up on police officers, the municipalities will more likely be able to motion for separation of the municipality, as a named respondent, from primary responsibility in liability. At that point, even if a federal civil jury finds for the plaintiff (police victim), and the municipality defended the cop(s) (named co-respondent in official capacity) with its own lawyers, and the municipality pays the judgment against the individual cop(s) in official capacity, the ultimate judgment will be much lower than for a finding of primary responsibility against the named municipality (say, for inadequate training, supervision, or policy as employer). Municipalities can now argue that they had a "best practices" specialized contractor write their policies for them, and their training, supervision, and policy is perfect.

Meanwhile, police agencies continue to take up inordinate municipal budgetary resources and payroll power (you ought to check out the Cobleskill village budget one of these days or examine payrolls on seethroughNY). In Cobleskill, the village can't even have meetings in its own municipal building, it has to use the volunteer firehouse because the police department takes up most of the municipal building behind locked doors.

To put it in plain-old simple terms--the police are king of the hill right now, and the People are too anxiety-ridden to legislatively abolish or restructure police agencies. The society runs like a dysfunctional family right now--the police (in general) stand at the top of a power hierarchy at the local level, and nobody, neither public interest group nor government nor citizenry, feels confident or mature enough to rise to maturity and handle their own affairs as mature adults without a big brother present. We are unable to handle our own affairs as a civil society and craft democratic intent for our own government, because we're too busy competing with one another as pawns in a game of neoclassical-economic capitalism (the big picture beyond the myopia; the true chessboard).

Sooner than me sit in that snow job of a committee process at the County Building, or beg for the attention of hard-up pawns (fellow citizens), I might as well just lay out my deepest wisdom here. The police get paid a handsome wage to sit in these committee meetings, as does the district attorney (paid nearly two hundred thousand dollars a year), the public defense coordinator, and the county administrator. Other officials get paid less. The public gets paid nothing to sit there and get depreciated by sophistry (I honestly cannot think of any more dignified term for it in the English language) for hours at a time.

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Madison PaulySeptember/October 2020 Issue

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To: Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@middleburghcsd.org>

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Date: Fri, Oct 9, 2020 at 5:58 PM
Subject: Re: Lexipol story
To: stinson <stinson@midtel.net>, federicebill@gmail.com <federicebill@gmail.com>, <mayor@cobleskill.org>, <wcook001@luthersem.edu>, Peacemakers <kchawk@midtel.net>, Peacemakers <peacemakes@yahoogroups.com>

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Gmail **Bill Federice <federicebill@gmail.com>**

Lexipol story

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To: stinson <stinson@midtel.net>, "federicebill@gmail.com" <federicebill@gmail.com>, mayor@cobleskill.org, wcook001@luthersem.edu, Peacemakers <kchawk@midtel.net>, Peacemakers <peacemakes@yahoogroups.com>

And another correction of mine--in my final paragraph, last sentence, I should have written "Rural Awakening leadership." I must admit that I am holding no high opinion of the communicative quality of the Rural Awakening leadership, judging from my own personal endeavors to communicate with the leadership. I would be more than happy to see the citizens' assembly go forward with participation by Rural Awakening participants, and believe it would be an excellent and productive project. I don't think it should be a Rural Awakening project, per se, if the leadership doesn't want to take a hands-on authorship. However, my opinion is my own and does not reflect on any other individual or group. The citizens' assembly ultimately assigns authorship however it wants (a fine quality of direct democracy). Likewise, my opinion of RA's communicative quality does not reflect poorly on the leadership or the organization. It is rather my own opinion of my own interpretations, and as all human communicative interactions are unique to the individual participants and uniquely reflexive, my experiences include my own input signals and my exchange is unique from any other (ie: I could be my own maker of my problem).

Apologies to anyone offended. I applaud everyone with a hand in this process, even if I don't agree with every procedure. RK

On Fri, Oct 9, 2020 at 5:41 PM Robert Kerley <universalhealthydevelopment@gmail.com> wrote:
[Quoted text hidden]

Gmail Bill Federice <federicebill@gmail.com>

Mask wearing at committee meetings

4 messages

Pat Hults <hultsp@outlook.com> Sat, Oct 3, 2020 at 6:08 PM
To: "federicebill@gmail.com" <federicebill@gmail.com>, "richard.lape@co.schoharie.ny.us" <richard.lape@co.schoharie.ny.us>

Hello Mr. Federice and Mr. Lape - I attended the initial meeting dealing with the review of policing in the county. While I very much appreciated the opportunity to listen to what was presented and give input, I was disconcerted that most of the board members did not wear masks during the meeting. Since proper Covid protection involves both social distancing and masks I am perplexed that masks were not worn by all. Because of my concern I tried to listen to the next meeting offered on Facebook. I gotta tell you, much of it was extremely difficult to hear and the visuals ended up simply a view of the initial outlines.

I'd like to attend the upcoming meeting for Oct. 6th in person and in light of the outbreak in the White House, I sincerely hope everyone will wear masks during the meeting. Can you reassure me this will occur? It seems a reasonable and fairly simple request that we follow both state regulations and the clear and strong recommendations of scientists. This does not need to be some political statement, but a recognition that we all care about each other and want to keep each other safe.

And, by the way, I attended the Village of Cobleskill open meeting on this topic and everyone was wearing masks all the time - even when speaking.

Thank you very much and again, I appreciate the time, effort, and thought being put into the process by the board members.

Pat Hults

Patricia Hults
518-234-4517

Bill Federice <federicebill@gmail.com> Sun, Oct 4, 2020 at 8:49 PM
To: Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@middleburghcsd.org>

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http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Stephen Weinhofer <Stephen.Weinhofer@middleburghcsd.org> Mon, Oct 5, 2020 at 11:33 AM
To: Bill Federice <federicebill@gmail.com>

Bill,
I thought State regulations were if you maintained 6 foot spacing you were not required to wear a mask.
Can you help?
Thanks,
Steve

From: Bill Federice <federicebill@gmail.com>
Sent: Sunday, October 4, 2020 8:49 PM
To: Candace Ellis <candacee@ccalbany.org>; Dick Lape <lapelspc@midtel.net>; Harold Vroman <haroldvroman@aol.com>; John Leavitt <john.leavitt@co.schoharie.ny.us>; Pastor Ray Richards <pastorray@cagcobleskill.org>; Peggy Hait <jeffersontwnsup@gmail.com>; Ron Stevens <ronald.stevens@co.schoharie.ny.us>; Stephen Weinhofer <Stephen.Weinhofer@MiddleburghCSD.org>
Subject: Fwd: Mask wearing at committee meetings

[Quoted text hidden]

Bill Federice <federicebill@gmail.com> Mon, Oct 5, 2020 at 1:27 PM
To: Stephen Weinhofer <Stephen.Weinhofer@middleburghcsd.org>

Stee, that is correct. She is wrong.

[Quoted text hidden]

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Pat Hults

Patricia Hults
518-234-4517

Bill Federice <federicebill@gmail.com> Sun, Oct 4, 2020 at 8:49 PM
To: Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@middleburghcsd.org>

FYI

[Quoted text hidden]

--

Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Stephen Weinhofer <Stephen.Weinhofer@middleburghcsd.org> Mon, Oct 5, 2020 at 11:33 AM
To: Bill Federice <federicebill@gmail.com>

Bill,
I thought State regulations were if you maintained 6 foot spacing you were not required to wear a mask.
Can you help?
Thanks,
Steve

Gmail

Bill Federice <federicebill@gmail.com>

Cobleskill Documents

4 messages

mayor@cobleskill.org <mayor@cobleskill.org> Fri, Oct 2, 2020 at 12:26 PM
To: Federicebill <federicebill@gmail.com>

Bill,
You and your colleagues may find this helpful. If Ron wants to use the same template, spelling out what the Sheriff Department's current policy is, as it pertains to each definition, it is extremely helpful. I spoke with Jim Poole from the Times Journal this morning and he agreed that it made the task charged to the committee quite simple. I find that if you give as much information to people as possible, it's harder for them to come up with questions. You've kind of already laid everything on the table. I further indicated in my opening of the meeting, to ask yourselves as you review each policy: 1) is it relevant 2)is it practical 3) do we have the resources? For us, Lexipol is actually going to be the biggest help of all. Have a great weekend.

Rebecca Stanton-Terk, Mayor
Village of Cobleskill
378 Mineral Springs Rd
Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978

-------- Original Message --------
Subject:
Date: 2020-10-02 16:08
From: mayor@cobleskill.org
To: mayor@cobleskill.org

3 attachments

committee list.docx
12K

executive order 203.pdf
219K

strategies reply (4) (1).pdf
69K

Bill Federice <federicebill@gmail.com> Sat, Oct 3, 2020 at 7:50 AM
To: Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Dick Lape <lapelspc@midtel.net>

FYI....

---------- Forwarded message ---------
From: <mayor@cobleskill.org>
Date: Fri, Oct 2, 2020 at 12:26 PM
Subject: Cobleskill Documents
To: Federicebill <federicebill@gmail.com>

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Subject:
Date: 2020-10-02 16:08
From: mayor@cobleskill.org
To: mayor@cobleskill.org

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Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

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strategies reply (4) (1).pdf
69K

Bill Federice <federicebill@gmail.com> Sat, Oct 3, 2020 at 7:51 AM
To: Becky Stanton <mayor@cobleskill.org>

Thanks Becky.

On Fri, Oct 2, 2020 at 12:26 PM <mayor@cobleskill.org> wrote:
Bill,
You and your colleagues may find this helpful. If Ron wants to use the same template, spelling out what the Sheriff Department's current policy is, as it pertains to each definition, it is extremely helpful. I spoke with Jim Poole from the Times Journal this morning and he agreed that it made the task charged to the committee quite simple. I find that if you give as much information to people as possible, it's harder for them to come up with questions. You've kind of already laid everything on the table. I further indicated in my opening of the meeting, to ask yourselves as you review each policy: 1) is it relevant 2)is it

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Cobleskill, NY 12043
O:(518)-234-3891
C: (518)-231-0978

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Subject:
Date: 2020-10-02 16:08
From: mayor@cobleskill.org
To: mayor@cobleskill.org

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Richard Lape <richard.lape@co.schoharie.ny.us> Sat, Oct 3, 2020 at 10:41 AM
To: Peggy Hait <peggy.hait@co.schoharie.ny.us>, Peggy Hait <peggyvhh@gmail.com>, Harold Vroman <harold.vroman@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, Stephen Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Bill Federice <federicebill@gmail.com>

From: lapelspc@midtel.net <lapelspc@midtel.net>
Sent: Saturday, October 3, 2020 10:32 AM
To: Richard Lape <richard.lape@co.schoharie.ny.us>
Subject: Fwd: Cobleskill Documents

------- Original Message -------

Subject: Fwd: Cobleskill Documents
Date:2020-10-03 07:50
From: Bill Federice <federicebill@gmail.com>
To: Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Dick Lape <lapelspc@midtel.net>

FYI....

---------- Forwarded message ---------
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Date: Fri, Oct 2, 2020 at 12:26 PM
Subject: Cobleskill Documents
To: Federicebill <federicebill@gmail.com>

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O:(518)-234-3891
C: (518)-231-0978

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Date: 2020-10-02 16:08
From: mayor@cobleskill.org
To: mayor@cobleskill.org

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Bill Federice
Supervisor, Town of Conesville
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(Current) This is VERY similar to hot spots policing and focused deterrence (at least in our community). We actually did this back when Chief Travis was at the helm. We had issues with noise/loud parties in certain areas (mainly West Main St. and MacArthur Ave.) and met multiple times with residents and business owners in those areas. What resulted were the new noise ordinances and unruly gathering laws that we have today. So I would say that we already do this and will continue to do so.

Model policies and guidelines promulgated by the NYS Municipal Police Training Council, and standards promulgated by the NYS Law Enforcement Accreditation Program=The Village Board has contracted with Lexipol to evaluate and assist in necessary revisions of the Village of Cobleskill Police Policies and Procedures Manual. The Village Board and Police Department are currently working towards, and taking all necessary steps to become an accredited law enforcement agency.

(Current) Not much to say on this one. It's a work-in-progress and will get done as soon as we can do it.

Studies addressing systemic racial bias or racial justice in policing=evaluate practices concerning the identification and investigation of hate crimes and bias. Find additional training and community resources to draw on to enhance hate crime prevention and response.

(Current) We can certainly use more training in this area, but we do on occasion deal with hate crimes and bias. Most recently we arrested a person for throwing bricks through the windows of a local business in part because of the owner's ethnicity. So it exists here, and we do deal with it (although it's rare). We could certainly try to do more in the area of hate crime prevention by working with other community resources to get the word out. More training would help our response in the sense that we might be able to detect hate-based crimes more readily with enhanced training.

all joined in and split it up across the board, it probably wouldn't be that much to start it up. The tough part is that with COVID-19, most of them have been hit hard financially already (and will be suffering for years to come), so it would be a really tough sell right now. Plus, some of them have already invested in security cameras and may not see more cameras as an added benefit for them or their businesses.

Violence prevention and reduction interventions=examples are youth development, programs relying on mentors from the community to teach young people skills/ addressing trauma & preventing violence at home, family counseling/ parent support, support programs run by social workers/community based outreach and violence interruption, derived from public health models of gun violence

[redacted] As with some of the other topics in this list, I think it's a good idea, but there are already a few programs out there that address these types of issues. We could certainly try to participate more in some of them, but trying to add our own program seems superfluous. What I'd love to do is make use of our own DARE program, which is exactly this type of program. We had great success with it in the Head Start program, but I'd like to see us expand into the elementary and middle schools as well. At that point it comes down to resources. We currently have one remaining DARE officer (Tahir Haqq). We used to have two before Shane Jones left. But even with two, scheduling the classes was challenging. We'd need to put more money (and people) towards it for it to be able to work.

Problem-oriented policing=Law enforcement agencies can work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

police presence in the affected areas to help deter the activity.

Focused deterrence=officers engage directly with offenders or groups of offenders based on their prior history, sometimes in partnership with community members

[redacted] This sounds like engaging an outside person (such as a member of the clergy or other prominent citizen) to go with an officer to engage the offender(s). To date, we have a very limited number of "offenders" who we could even attempt this with. So, as with many community-based outreach/PAL-type programs, I'm not sure that we would have the client base or resources needed to make this effective.

Crime prevention through environmental design=modify lighting and landscape, reducing the opportunity for crime

[redacted] I've had some basic training on the CPTED concept, and I like what I've seen. Although most of the issues (and changes needed to correct them) are encountered in more urban and suburban areas, there are some things that we here in the Village of Cobleskill could benefit from. Getting started would take working with Code Enforcement to gather a list of potential issues and remedies and then convincing the property owners that they need to make the changes in order to help deter criminal activity in that area. I'm all for it, and I think we could get it done with the resources that we have (with some exceptions). One big exception is that we could really use a good video system in the Main Street area that feeds directly into the PD and is recorded. Of course while the Village would own/operate the system, it's certainly possible to try and convince the business owners in that area to help foot the bill for the cost (I don't think it would take too many cameras to actually cover the whole area), and if they

think that this is something that we can do on our own. It would require the involvement of other agencies/organizations/entities as well. How would participants be brought to the table? Would it be voluntary or court-ordered? What would the dis-qualifiers (if any) be? Who appoints the mediator? It's certainly something we can explore, but I don't think that we could incorporate it in our policies unless the program is established first.

Community based outreach and conflict resolution=aim to curb violence by working with high-risk individuals & connecting them with services, programs, & other community engagement initiatives as to interrupt the cycle of crime

[redacted] We kind of do this now with LEAD, although it's not necessarily designed to curb violence. I think these are more of the Police Athletic League (PAL) type programs to help keep kids out of gangs and keep them engaged and out of trouble. While I'd love to be able to start up a PAL-type program, I just don't think that we have enough personnel to do it effectively. I'm not sure we could justify a program like this for what would amount to a very small number of people and would require more resources than we have. One thing we could do in this area would be more regular visits to the schools to engage in non-authoritative contacts with the students.

Hot Spots policing=visible increase in police presence where there are known crime spikes

[redacted] There are not many current hot spots. We usually have noise complaints/loud parties in off-campus student housing areas (which can change location from year to year), the occasional possible drug dealing call, or excessive vehicular speed complaints. In all of these cases, we already visibly increase

instances can be found in Chapter 1 as well as Chapter 12 (especially 12-10 and 12-11).

Implicit bias awareness training=Implicit bias refers to the attitudes or stereotypes that affect our understanding, actions and decisions in an unconscious manner. Implicit bias awareness training allows officers to recognize their own human biases and how implicit biases can affect their perceptions of others and their behavior. This training develops skills and tactics to reduce the influence of bias on police practice, and allows officers to be safe, effective, and just professionals.

(current) While some of our officers have had training in implicit bias, not all of them have. This is something that we should incorporate into the policy manual so that it's required to be taken at least once if not recurring.

De-escalation training and practices=diffuse a possible dangerous situation with body position and stance, tone of voice or word choice to calm rather than inflame an already tense situation. Exhaust all available methods of resolving a situation before using force.

(current) Again, some of our officers have had this type of training while other have not. It should be required by policy and be recurring on a regular basis for all officers.

Law enforcement assisted diversion programs=education, drug or mental health treatment may provide a better alternative for the individual & community versus incarceration

(current) We already participate in the Schoharie County LEAD Program. There should be a policy on new officers having to take the LEAD training and possible refresher training on occasion.

Restorative justice practices=healing rather than punishment, cooperation from all parties to arrive at a mutually acceptable resolution

(current) We don't have anything regarding this in our policy manual or participate in any program of this type, at least at the pre-arrest stage. I also don't

All participants should recognize that funds are limited, that personnel must be trained and managed for the tasks they are given, and that organizational change is rarely swift. The Village of Cobleskill Police Department accepts and embraces all necessary changes within its procedural capacity, to protect and preserve public safety with honor and integrity.

EVIDENCE BASED POLICING STRATEGIES:

Use of force policies=adopt policy prohibiting the use of force for retaliatory reasons, such as resisting, fleeing, or showing disrespect for an officer

[redacted] We do have policies in place that ban UOF for certain things (see GO 128-7), although retaliation isn't specifically mentioned. We can certainly add retaliation to the list of prohibited uses of force, particularly in circumstances where a person is in custody and no longer a direct threat to officers. As for resisting or fleeing, the standard of objective reasonableness was established by *Graham v O'Connor* and determines what amount of force an officer may lawfully use to effect an arrest or prevent escape (see GO 128-2, 128-4, and 128-5). So while officers may not use force for certain things, they can use *objectively reasonable* force to accomplish other goals, including effecting arrests and preventing escapes.

Procedural justice=the manner in which law enforcement interacts with the public, and how these interactions shape the public's trust of the police. The four pillars of procedural justice are: treating individuals with dignity and respect, giving individuals a voice during law enforcement interactions, being neutral and transparent in decision making, and conveying trustworthy motives.

[redacted] This is covered somewhat in different places in our General Orders, but the term itself is not used as far as I can tell. The Mission Statement and Introduction touch on the concept, and additional

EO 203 Police Reform as it Pertains to the VOC, PD Committee Members:

-Rebecca Stanton-Terk Mayor/Chief Executive of the Village of Cobleskill

-Jeffery Brown Chief of Police, Village of Cobleskill Police Department

-Justin Manchester Lieutenant, Village of Cobleskill Police Department

-Cody Whittaker Canine Officer/PBA President, Village of Cobleskill PD

-Susan Mallery Schoharie County District Attorney

-Suzanne Graulich Legal Defense of Indigents

-Howard Burt Deputy Mayor/Public Safety Committee, Village of Cobleskill

-Lance Rotolo Trustee/Public Safety Committee, Village of Cobleskill

-Angie Smith Domestic Violence Program Director with Catholic Charities

-Andrew Fetter Pastor, Fusion Church

-Anna Bouchard SUNY Cobleskill, Pearson Residence Hall Director

-D'Andre Miller Resident Life, SUNY Cobleskill

-Theresa Heary Schoharie County Rural Awakenings

-Bobbi Wilding Schoharie County Rural Awakenings

-Jeff Tufano Business Owner, The Main Room

-Randy Pacatte Business Owner, Pro-Active

-Emily MacDavitt Teen Spirit of New York 2021, Student

-Hannah Rose Foote New York State FFA Secretary, Student

-Reggie Harris Singer/Song Writer, resident

-Jake Scott SUNY Cobleskill Men's Head Basketball Coach

Gmail

Bill Federice <federicebill@gmail.com>

Schoharie County Policing Policy Reforms

Wendy Cook <wcook001@luthersem.edu> Tue, Sep 29, 2020 at 8:16 PM
To: Richard.lapeA@co.schoharie.ny.us, federicebill@gmail.com, Ronald.stevensA@schoharie.ny.us

To: William Federice, Chairman, Schoharie County Board of Supervisors
Richard Lape, Chairman, Schoharie County Board of Supervisors Law Enforcement, Judicial Committee
Ron Stevens, Schoharie County Sheriff

We are Schoharie County citizens interested in the local (including Schoharie County) implementation of Executive Order 203. Four of us attended the September meeting of the Law Enforcement, Judicial Committee of the Schoharie County Board of Supervisors; two of us attended (and one listened via streaming) the first breakout meeting, highlighting the LEAD program.

Thank you for taking seriously the law enforcement review called for by Executive Order 203. A fair, just legal system is vital to our safety and integral to our democracy, and local law enforcement policies and practices are the foundation to a just legal system. It is well-documented and researched that the legal system in America is tainted by racism. The fact that Schoharie County is overwhelmingly white does not excuse us from ensuring local law enforcement is fair for all, including however many or few people of color live here. So, again, thank you for taking seriously the law enforcement review currently underway. We would like to work with you to define the best policies for Schoharie County.

It is our understanding that the plan is to undertake a review of additional specific components of current programs and policies at bimonthly meetings of the Law Enforcement, Judicial Committee. We would like to participate, and ensure that the following questions are addressed.

1. What specific components are still to be reviewed and when is each slated to be discussed? We are especially interested in policies regarding:
- use of force -- a total ban on chokeholds, strangleholds and hog ties; clearly defined gradient of use of force; mandatory reporting of each use of, or threat to use, force
- traffic stops -- cause for a stop should not simply be the condition of the car or the race of the driver and/or occupants; body cameras should record all stops; sobriety tests should be recorded
- civilian review board -- must be provided with a budget and investigating power
- transparency following an incident -- prompt public access to body camera recordings, video, reports and other information (after a reasonable time to review for witness preservation)
- qualified immunity -- permit civil lawsuits to hold officers accountable for their actions

2. How are you planning to invite and include widespread community input on current practices of the Schoharie County Sheriff's office? Specifically, including input from people of color is fundamental to eliminating racism in the law enforcement policies and practices in Schoharie County.

3. When and how will community input be sought on the policy reforms proposed by Lexipol? Will Lexipol seek community input before it drafts policies for Schoharie County? Will the County seek community input before adopting the policies proposed by Lexipol? It is important that sufficient time before the deadline of April 1, 2021, be allotted for community involvement in the final form of the revisions.

Sheriff Stevens, to begin our own understanding of possible revisions, we would appreciate obtaining a copy of the current manual of Schoharie County Sheriff's Department policies. What is the best way to obtain

this?

Thank you for all you do on behalf of the safety of Schoharie County residents. Your work is important and appreciated.

With Gratitude,

Wendy Cook
Debbie Paden
Theresa Heary
Pat Hults
Bobbi Wilding
Alyson Montione

Gmail **Bill Federice <federicebill@gmail.com>**

For the LE Review Comm. Re: Police Accountability

2 messages

stinson <stinson@midtel.net> Sun, Sep 27, 2020 at 12:58 PM
To: "federicebill@gmail.com" <federicebill@gmail.com>, mayor@cobleskill.org

LE Review Comm.,

The attached document was commissioned by the Justice Dept. some years back and should be helpful in understanding the current issues in policing.

Wayne Stinson

Excerpts:

"Accountability is a vital element of American policing. Both individual officers and law enforcement agencies should be held to account for their actions. Effective accountability procedures are essential if the police are to achieve their goals of lawfulness and legitimacy, as defined by The National Academy of Sciences.

Lawfulness refers to compliance with the formal requirements of the law, including statutes and court decisions.

Legitimacy refers to the perception that police conduct is both lawful and consistent with public expectations (National Research Council, 2004).

Lawfulness and legitimacy, in turn, are essential if the police are to achieve their goals of reducing crime and disorder, enhancing the quality of neighborhood life, and serving community needs. A lack of legitimacy inhibits the development of working partnerships that are an essential ingredient in community policing and problem-oriented policing (Goldstein, 1990, Scott, 2000)...

This paper is limited to policies and procedures related to holding individual officers accountable for their conduct. As already noted, agency-level accountability is not covered in this paper. The paper focuses on a selected set of accountability procedures. They include:
(1) Formal agency policies on the use of police authority;
(2) Routine supervision of officers by first-line supervisors;
(3) Regular performance evaluations;
(4) Early intervention systems designed to identify performance problems;
(5) Procedures for investigating allegations of officer misconduct."

police accountability paper.pdf
172K

Bill Federice <federicebill@gmail.com> Sun, Sep 27, 2020 at 2:54 PM
To: Candace Ellis <candacee@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwnsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@middleburghcsd.org>

FYI

---------- Forwarded message ---------
From: **stinson** <stinson@midtel.net>
Date: Sun, Sep 27, 2020 at 12:58 PM
Subject: For the LE Review Comm. Re: Police Accountability
To: federicebill@gmail.com <federicebill@gmail.com>, <mayor@cobleskill.org>

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

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Gmail

Bill Federice <federicebill@gmail.com>

Law Enforcement Review

2 messages

stinson <stinson@midtel.net> Sat, Sep 26, 2020 at 8:26 AM
To: "federicebill@gmail.com" <federicebill@gmail.com>, mayor@cobleskill.org

For the Law Enforcement Review Committee,

The crux of the police problem is the serious power imbalance between citizen and cop, and a lack of accountability due to inadequate supervision by both line officers and officials of employing municipalities.

The Governor's EO147 is not working and probably was not intended to work. It's political theater.

The Attorney General's office (and SIPU) has ignored some cases and in others has relied on seriously flawed investigations which produced prejudicial findings to clear police officers of misconduct. The NY State Police (Collision Reconstruction Units), local District Attorney Offices, and governing bodies are complicit.

Two Schoharie County cases documenting these failures are analyzed here: https://scfpg.blogspot.com/p/camp-homicide.html and https://scfpg.blogspot.com/p/gerard-roldan-homicide.html

There has been no disciplinary action taken in either of the above cases - or if there has been a lack of transparency has deprived the county and village citizens of this knowledge.

Wayne Stinson,

108 Southmeadow Dr.

Summit, NY

518-287-1463 (land line)

Bill Federice <federicebill@gmail.com> Sat, Sep 26, 2020 at 8:39 AM
To: Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Dick Lape <lapelspc@midtel.net>, Peggy Hait <jeffersontwnsup@gmail.com>, Harold Vroman <haroldvroman@aol.com>, Stephen Weinhofer <Stephen.Weinhofer@middleburghcsd.org>, John Leavitt <john.leavitt@co.schoharie.ny.us>, candacee@ccalbany.org, Ray Richards <pastorray@cagcobleskill.org>

FYI. I was asked to pass this on to the Law Enforcement Review Committee.

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From: **stinson** <stinson@midtel.net>
Date: Sat, Sep 26, 2020 at 8:26 AM
Subject: Law Enforcement Review
To: federicebill@gmail.com <federicebill@gmail.com>, <mayor@cobleskill.org>

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Summit, NY

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Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

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Gmail

Bill Federice <federicebill@gmail.com>

Law Enforcement Review thoughts

2 messages

stinson <stinson@midtel.net> Tue, Sep 22, 2020 at 1:14 PM
To: "federicebill@gmail.com" <federicebill@gmail.com>

Chairmen Federice,

I was pleased to attend the 9/15 meeting of the LE Review Comm. at the Public Safety Bldg. I had to leave quite early due to other obligations but, before leaving I provided a copy of my prepared remarks. Please share my remarks with the full committee.

The COVID-19 social distancing and mask requirements seriously restricts the potential for public attendance or comment. To encourage public participation a dedicated web page and/or a Facebook page would be helpful. Visitors to the county web page should see links to such comment venues. I imagine this would not be a difficult task for the county's IT person.

Lastly, this message is being sent to what apparently is your personal email address. If would more appropriate for there to be an email address to serve the committee. Such a centralized communication point, in addition to the above mentioned facilities, could serve as an archive of public contributions to the committee's work.

Wayne Stinson

Bill Federice <federicebill@gmail.com> Tue, Sep 22, 2020 at 4:58 PM
To: stinson <stinson@midtel.net>

Thank you for your comments. I will consider them.

Also, this email address is dedicated to my duties as Supervisor and Chairman. I have two other separate emails for personal use.

On Tue, Sep 22, 2020 at 1:14 PM stinson <stinson@midtel.net> wrote:

> Chairmen Federice,
>
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>
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>
> Wayne Stinson

--

Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

Gmail

Bill Federice <federicebill@gmail.com>

Fwd: For the Law Enforcement Reform Comm

2 messages

Steven Wilson <steven.wilson@co.schoharie.ny.us>
To: Bill Federice <federicebill@gmail.com>
Mon, Sep 14, 2020 at 10:03 AM

Get Outlook for iOS

From: stinson <stinson@midtel.net>
Sent: Monday, September 14, 2020 9:14:39 AM
To: Steven Wilson <steven.wilson@co.schoharie.ny.us>
Subject: For the Law Enforcement Reform Comm

Steve,

I consider this report from The President's Task Force on 21st Century Policing an important resource for the Law Enforcement Reform Committee. I have provided a similar message to Mr. Federice via the web page facility.

Also, I am concerned that the committee seems not to have any community representatives. Am I correct?

Find the report at:
https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/115/attachments/original/1570474092/President-Barack-Obama-Task-Force-on-21st-Century-Policing-Final-Report-min.pdf?1570474092

Wayne

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final-report-21st-century-policing.pdf
3355K

Bill Federice <federicebill@gmail.com>
To: Wayne Stinson <stinson@midtel.net>
Tue, Sep 15, 2020 at 9:13 AM

Wayne, there will be community representatives on the Committee.
[Quoted text hidden]
--
Bill Federice
Supervisor, Town of Conesville
Chairman, Schoharie County Board of Supervisors

607-353-2110

Check out the official Town of Conesville Website at:
http://www4.schohariecounty-ny.gov/government/town-of-conesville/

final-report-21st-century-policing.pdf
3355K

Gmail **Bill Federice <federicebill@gmail.com>**

Message for Board of Supervisors - Chairman

1 message

donotreply@co.schoharie.ny.us <donotreply@co.schoharie.ny.us> Mon, Sep 14, 2020 at 9:20 AM
To: federicebill@gmail.com

--- --The following message was entered through the Schoharie County Public Web Site 'Contact Us' Page--

Date Sent: 2020-09-13 11:05:53.0

Message:
Useful history regarding police accountability and recommended reading for the Law Enforcement Reform Committee. The Report of the Presidents Task Force on 21st Century Policing:

Senders Name and Contact Information:
stinson@midtel.net
Wayne Stinson 5182871463

== This email was sent from an unmonitored mail account. Please do not respond directly to this email. ==

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E2.MailBox1401206

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Schoharie County Law Enforcement Review Committee Member Roster

Bill Federice	Chairman Schoharie County Board of Supervisors
Ronald Stevens	Sheriff Schoharie County
Dick Lape	Chairman Law Oversight Committee
Peggy Hait	Jefferson Supervisor Law Oversight Committee
John Leavitt	Carlisle Supervisor Law Oversight Committee
Harold Vroman	Summit Supervisor Law Oversight Committee
Steve Weinhofer	Broome Supervisor Law Oversight Committee
Duane Tillapaugh	Undersheriff Sheriff's Department
Bruce Baker	Investigator Sheriff's Department
Candace Ellis	Special Projects Director Catholic Charities
Raymond Richards	Pastor Calvary Assembly of God

What is the N.Y.S. Police Reform and Reinvention Collaborative?

EXECUTIVE ORDER 203 TITLED: NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE

Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to

- use of force policies, procedural justice
- any studies addressing systemic racial bias or racial justice in policing
- implicit bias awareness training
- de-escalation training and practices
- law enforcement assisted diversion programs
- restorative justice practices
- community-based outreach and conflict resolution
- problem-oriented policing
- hot spots policing
- focused deterrence
- crime prevention through environmental design
- violence prevention and reduction interventions
- model policies and guidelines promulgated by the New York State Municipal Police Training Council
- standards promulgated by the New York State Law Enforcement Accreditation Program