

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.