

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)

	<u>NAME</u>	<u>PHONE NUMBER</u>	<u>AGENCY/DEPT/VISITOR</u>
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.

Montgomery County Sheriff's Office

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

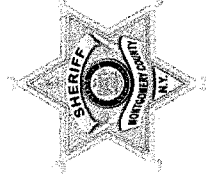
Employees are prohibited from retaliating against you for reporting truthful information in lodging a complaint against them.

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.ny.us

Public Complaint 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	<input type="checkbox"/>	<input type="checkbox"/>
Very Caring/empathetic	<input type="checkbox"/>	<input type="checkbox"/>
Did a great job	<input type="checkbox"/>	<input type="checkbox"/>
Made an extra effort	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

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

Street Address

Sex: Male Female

Street Address Line 2

Age:

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:

 Street Address

Date: _____

 Street Address Line 2

Time: _____ AM/PM (Please Circle)

 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

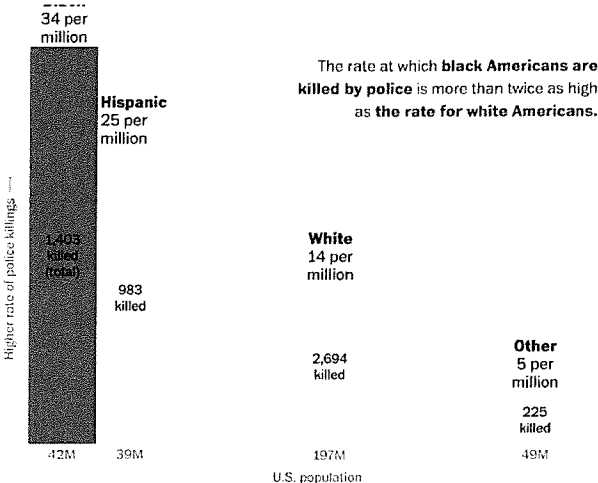
Bias-based procedures and tactics

Other



Attached 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 Sherriff’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. Therefor, I am going to restate our position on the use of “reasonable objectiveness.”

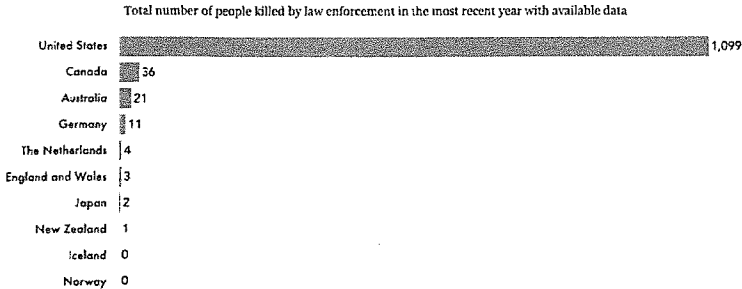
While the concept is currently supported by case law, it is *not* protecting the members of the public, especially male, black members of the public who are killed at a rate 2.8 times higher than whites. These statistics have been pretty consistently noted by several sources including academic research 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

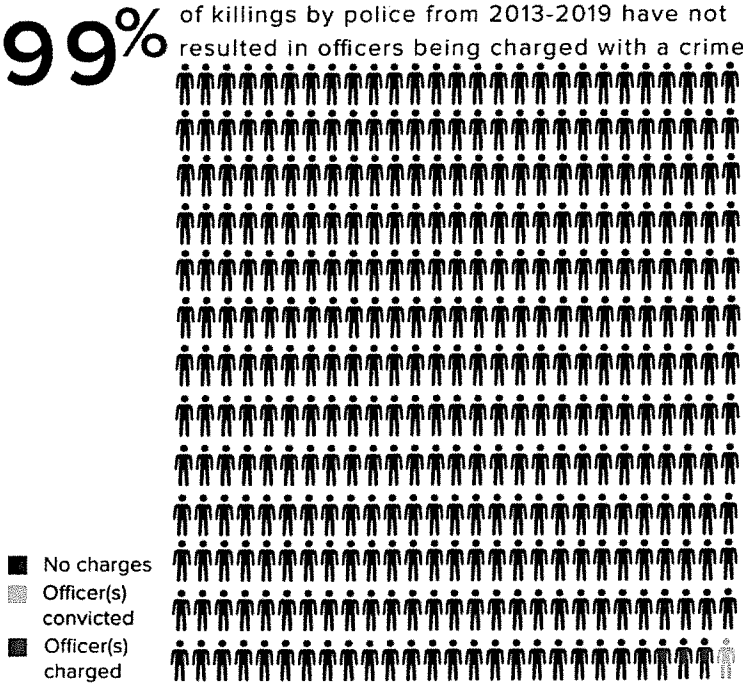


PRISON POLICY INITIATIVE Sources: Data compiled by the Prison Policy Initiative from news sources, government reports, and advocacy groups. Data from the U.S., the Netherlands, England and Wales, and Iceland are from 2019. Data from Australia, Germany, Japan, New Zealand, and Norway are from 2018, and 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/>

What “objective reasonableness” is doing is protecting 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 per year, 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



Source: Mapping Police Violence



Until there is a standard of judgement than protects civilians, as well as police, we will continue to see unjustified and heartbreaking killings.



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.

Cobleskill Police Department

Control

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.

Cobleskill Police Department

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

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Control

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.

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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

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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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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 ~~shall~~ should 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, Confetti 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.

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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

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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.

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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.

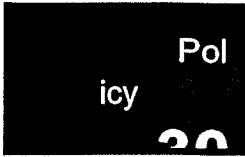
Officers who do not carry conducted energy devices ~~shall~~ should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

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.

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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

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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.

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- (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

~~Subject to available resources,~~ the 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.

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- (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.

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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 explicitly 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.

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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.

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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.

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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.

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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.

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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.

~~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.

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- (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.~~

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~~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.

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300.4 DEADLY FORCE APPLICATIONS

~~[When reasonable, the 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.~~

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300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

~~When feasible, officers shall~~ should take reasonable steps to move out of the path of an

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approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

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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
- (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.

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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.

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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

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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~~ be considered medical emergencies. Officers who reasonably suspect a medical emergency ~~shall~~ 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~~ 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~~ document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor ~~shall~~ 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~~ not be summarized or included in any related criminal charges.

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2. The fact that a recorded interview was conducted ~~shall~~ be documented in a property or other report.
 3. The recording of the interview ~~shall~~ 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~~ 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~~ 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~~ 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~~ 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.

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300.9 TRAINING

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

~~Subject to available resources, officers shall~~ 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 ~~shall~~ prepare an analysis report on use of force incidents. The report ~~shall~~ 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 ~~shall~~ 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.