

GREENE COUNTY SHERIFF'S OFFICE

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| Subject: USE OF FORCE | Policy 128 |
| Effective: January 1st, 2020 | Standard Number(s): 20.1, 43.8 |
| Rescinded: | Amended: February 2 nd , 2021 |
| | Sheriff Peter Kusminsky |
| Reviewed: | |

Purpose: To establish a policy whereby personnel of the GCSO have guidance and procedures in the use and reporting of the use and presentation of physical force.

I. Policy

- A. The federal and state standards by which the use of force is measured are both founded in the basic premise of objective reasonableness. The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others. The standard of objective reasonableness, established by the United States Supreme Court in [Graham v. Connor](#), is used in this policy and intended to provide officers with guidelines for the use of force, including deadly physical force.

II. DEFINITIONS

- A. **Objectively Reasonable-** An objective standard used to judge an officer's action. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.
- B. **Deadly Physical Force-** Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
- C. **Physical Injury-** Impairment of physical condition or substantial pain.
- D. **Serious Physical Injury-** Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss of impairment of the function of any bodily organ.

III. USE OF FORCE

- A. In general terms, force is authorized to be used when reasonably believed to be necessary to affect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.
- B. Under the 4th Amendment, a police officer may use only such force as is "objectively reasonable" under the circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene.

IV. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE

- A. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at such time of the event.
- B. Factors that may be used in determining the reasonableness of force include, but not limited to:
 - 1. The severity of the crime of circumstance;
 - 2. The level and immediacy of threat or resistance posed by the suspect;
 - 3. The potential for injury to citizens, officers, and suspects;
 - 4. The risk or attempt of the suspect to escape;
 - 5. The knowledge, training, and experience of the officer;
 - 6. Officer/subject considerations such as age, size, relative strength, skill level, injury, or exhaustion, and the number of officers or subjects;
 - 7. Other environmental conditions or exigent circumstances.

V. DUTY TO INTERVENE

- A. Any member present and observing another member using force that he/she reasonably believes to be clearly beyond that which is justified under the circumstances shall intercede to prevent the use of unreasonable force, if and when the member has a realistic opportunity to prevent harm.
- B. A member who observes another officer use force that exceeds the degree of force as described in subdivision A of this section, shall promptly report these observations to a Supervisor.

VI. USE OF PHYSICAL FORCE

- A. A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he or she reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of physical force.
- B. A chokehold or similar restraint is prohibited for use solely for the purpose of gaining compliance.

- C. Deadly physical force may be used for such purposes as those stated in section [35.30 of the New York State Penal Law](#). A Deputy may use deadly physical force against another person when the Deputy believes it to be necessary to defend himself/herself, another police officer or another person from the use, or imminent threat of serious physical injury or death. A Deputy is authorized to use any means at their disposal to defend themselves, another police officer or a citizen from the use or imminent use of serious physical injury or death.
- D. Where feasible, some warning should be given prior to the use of any type of physical force, up to and including deadly physical force.

VII MEDICAL CONSIDERATIONS

- A. Once it is reasonably safe to do so, medical assistance shall be provided to any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. The Shift Supervisor must be notified when a subject complains of pain, is injured or requires medical assistance following a use of physical force incident.
- B. Any individual exhibiting signs of physical distress following a use of physical force incident should be continuously monitored until (s)he can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.
- C. The on-scene supervisor or, if the on-scene supervisor is not available, the primary 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 physical force. This notification shall include a description of the physical force used and any other circumstances that may be beneficial to the care for the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).
- D. If the subject refuses medical attention, such refusal shall be properly documented and, whenever practicable, should be made to the Shift Supervisor and witnessed by another member and/or medical personnel.
- E. Persons 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 members to be brought under control, may be at an increased risk of sudden death. Incidents involving these persons should be considered medical emergencies. Members who reasonably suspect such a medical emergency should request medical assistance as soon as practicable and direct medical personnel stage at a safe location until directed otherwise.
- F. Members should take steps to obtain medical attention for persons who are displaying signs of mental illness and acting in a manner likely to result in serious physical injury or death to themselves or others.
- G. Requests for medical or mental health treatment, as well as efforts to arrange for such treatment, shall be documented.

VIII. PROHIBITED USES OF FORCE

- A. Force shall not be used by a member for the following reasons:
 - 1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
 - 2. To coerce a confession from a subject in custody;

3. To obtain blood, saliva, urine, or other bodily fluid or cell, from an individual for the purposes of scientific testing in lieu of a court order where required;
 4. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.
- B. Only issued or approved equipment will be carried on duty when applying physical force, except in emergency situations when a member must use any resources at his or her disposal.

IX. REPORTING & REVIEWING THE USE OF FORCE

- A. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.
1. If a person refuses medical treatment such refusal will be documented.
- B. Members involved in use of force incident as described below shall notify their supervisor as soon as practicable and shall complete a departmental [Use of Force, Firearms Report, or any other necessary forms \(example: OC usage form, Taser usage form, etc.\)](#).
1. Use of force that results in a physical injury.
 2. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing or from compliance techniques.
 3. Incidents where a conducted electrical weapon (CEW) was intentionally discharged or accidentally discharged after being displayed.
 4. Presents, uses or discharges a firearm at or in the direction of another person;
 5. Uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;(Refer to Policy 184 for restrictions on chokeholds or similar restraints)
 6. Presents, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas;
 7. Presents, uses or deploys an impact weapon, including, but not limited to, a baton or billy club;
 8. Presents, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bang, or long range acoustic device.
 9. Engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.
- C. Supervisors will ensure that members receive any necessary assistance, including medical treatment. They will also ensure that any injuries to members shall be properly documented and reported.
- D. In the event that a member is unable to complete reports due to injuries, the supervisor will prepare or cause to be prepared, and submit them.

X. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS

- A. The member's immediate supervisor will respond to the scene of the incident immediately after learning of the use of physical force. If the member's immediate supervisor is not available, the chain of command will be followed and the next highest ranking member in

the chain of command will be dispatched to the scene. The first supervisor to the scene will ensure that a thorough investigation is conducted. Whenever possible, this investigation will be conducted at the scene.

- B. A supervisor that is made aware of a force incident shall ensure the completion of a [Use of Force/ Firearms Report](#) by all members engaging in reportable use of force and, to the extent practical, make a record of all officers present.
- C. Supervisors will determine if an investigator will respond to the scene of an incident involving the use of force. With assistance of the investigator a supervisor will determine what level of the investigator's services will be utilized; including but not limited to photos, measurements and diagrams.
- D. The Lieutenant will receive the supervisor's report and review the circumstances of the investigation. After reviewing the report, the Lieutenant will forward the report to the Captain, who will determine if further investigation is required. In the absence of a Lieutenant, the Captain will assume both functions.
- E. The Captain will determine by reviewing all reports if the use of force used meets the criteria set forth in New York State Executive Section 837-T, or New York State Commission of Correction minimum standards. If such criteria has been met the Captain will cause such report to be made to the Division as stated in Executive Law Section 837-T, or Commission of Correction minimum standards.