



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

I. Policy

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this office is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Executive Law § 840).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

The use of force by law enforcement personnel is a matter of concern, both to the public and to the law enforcement community. Deputies are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Deputies must understand their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Oswego County Sheriff's Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting deputies with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

II. DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated 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).



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the Deputy at the time, taken as a whole, including the conduct of the Deputy and the subject leading up to the use of force.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the deputy or another person.

Objectively Reasonable - Is an objective standard used to judge a Sheriff's Deputy Officer's actions. Under this standard a particular application of force must be judged through the perspective of a reasonable Deputy 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 Deputy at the time that the force was used.

Physical Injury - Impairment of physical condition or substantial pain.

Serious Physical Injury - Physical injury which creates a substantial risk of death or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

Reasonable Belief - Those facts and circumstances within the knowledge of the individual which would make a reasonable and prudent person tend to believe that the facts and circumstances are true.

Accidental Discharge of a Firearm - A firearm will be considered "accidentally discharged" for the following reasons only: mechanical failure and/or faulty ammunition.

Unintentional Discharge of a Firearm - A firearm will be considered "unintentionally discharged" under the following conditions: when it is not an accidental discharge as described above, or when it is discharged without purpose or intent.

Deploy - bring into effective action; utilize. Can also mean to display.

III. PERSPECTIVE



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

When observing or reporting force used by a law enforcement officer, each deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

IV. DUTY TO INTERCEDE

Any deputy present and observing another deputy 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. A deputy who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

V. OBJECTIVE REASONABLENESS STANDARD

The reasonableness of force will be judged based on the objectively reasonable standard as previously defined. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*, is used in this policy, and is intended to provide officers with guidelines for the use of force, including deadly physical force. As the Supreme Court has recognized, this reasonableness inquiry embodies “allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation.” 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.

Given that no policy can realistically predict every possible situation a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. It is also recognized that circumstances may arise in which deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this office. Deputies may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

When dealing with juveniles, no distinction shall be made relative to the age of the intended target of deadly physical force.

VI. 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 a deputy to (Executive Law § 840):

- (a) Extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present.
- (b) Coerce a confession from a subject in custody.
- (c) Obtain blood, saliva, urine, or other bodily fluid or cells from an individual for scientific testing in lieu of a court order where required.
- (d) 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.

VII. FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy has used reasonable force, several factors should be taken into consideration, as time and circumstances permit.

These factors include but are not limited to:

- (a) Immediacy and severity of the threat to deputies or others.

Donald R. Hilton



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with deputy commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the deputy.
- (l) Potential for injury to deputies, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

VIII. PAIN COMPLIANCE TECHNIQUES

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



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

successfully completed office-approved training. Deputies utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the deputy.
- (c) Whether the individual has been given sufficient opportunity to comply.

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

IX. DE-ESCALATION

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

X. USE OF FORCE TO SEIZE EVIDENCE

In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, deputies are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, deputies should not intentionally use force which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Deputies are encouraged to use techniques and methods taught by the Oswego County Sheriff's Office for this specific purpose.

XI. 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 unless deadly physical force is authorized (Exec. Law § 840).

A handwritten signature in cursive script that reads "Donald R. Hilton".



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

XII. DEADLY FORCE APPLICATIONS

When reasonable, the deputy should, prior to the use of deadly force, make efforts to identify him/herself as a police officer and to warn that deadly force may be used, unless the deputy has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

(a) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the deputy believes the individual intends to do so.

XIII. REPORTING THE USE OF FORCE

Any use of force by a member of this office shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis, and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure, or law (Executive Law § 840).

XIV. NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

Donald R. Hilton



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable deputy to conclude that the individual may have experienced more than temporary 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 TASER (TM) or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual alleges unreasonable force was used or that any of the above has occurred.

XV. MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the deputy's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another deputy and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the deputy reasonably

Donald R. Hilton



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

XVI. SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to (Executive Law § 840):

- (a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, obtain a recorded interview with the individual upon whom force was applied.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, when possible, ensure that photographs are taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports, including any deputies present at the incident.
- (f) Review and approve all related reports.



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL
PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

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

(g) 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.

XVII. DIVISION LIEUTENANT RESPONSIBILITIES

The lieutenant 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.

The Lieutenant should ensure that there is enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3).

The Lieutenant shall ensure that reports are submitted to the DCJS when a deputy (Executive Law § 837-t; 9 NYCRR 6058.3):

- (a) Engages in conduct which results in the death or serious physical injury of another person.
- (b) Brandishes, uses, or discharges a firearm at or in the direction of another person.
- (c) Uses a carotid control hold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that is reasonably likely to hinder breathing or reduce intake of air.
- (d) Displays, uses, or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas.
- (e) Brandishes, uses, or deploys an impact weapon, including, but not limited to, a baton or billy.

Donald R. Hilton



County of Oswego

SHERIFF'S OFFICE

STANDARD OPERATING PROCEDURE

Section: **20.1**

Effective Date: **03/26/21**

Rescinds: ALL

PREVIOUS

Revised 03/19/21
combines previous
20.1,20.3,20.4,20.7

Subject: Use of Force

- (f) Brandishes, uses, or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb, or long-range acoustic device.

XVIII. TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding. Subject to available resources, deputies should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.
- (c) Applications of use of force (Article 35) and conflict strategies as required by the state Use of Force Model Policy (Executive Law § 840).

XIX. POLICY AVAILABILITY

This policy shall be readily available to the public upon request and shall be posted on the Oswego County Website. (Executive Law § 840).

Donald R. Hilton