



Chief of Law Enforcement
Edward P. Ackley



SARATOGA COUNTY S.P.C.A. POLICE
Society for the Prevention of Cruelty to Animals

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EMPATHY FAIRNESS INTEGRITY PROFESSIONALISM RESPECT RESPONSIBILITY TRUSTWORTHINESS

Date: February 12, 2024

To: All Members of the SPCA Law Enforcement Incorporation
From: Chief Ed Ackley

Subj: Use of Force

1. Effective immediately, a Use of Force Directive will be initiated, and subject to modification since the current procedure manual is under development. Once the procedure manual is complete, or the section Use of Force will be applicable too has been reached. At that time the Use of Force will then be reviewed, applied and certified into the Saratoga County SPCA Law Enforcement Incorporation Procedural Manual.

A handwritten signature in blue ink, appearing to read "E. P. Ackley".

E. P. ACKLEY
Chief, IDC, FTO

Attached:

- 1) Use of Force Policy and Procedure



Chapter 206 of Section 200, Page 1 of 8
General Regulations, Uniforms and Equipment
Use of Force
New Policy, Effective 02/12/2024

PURPOSE :

1. The purpose of this policy and procedure is to provide investigators of the Saratoga County SPCA Law Enforcement Incorporation with guidelines on the reasonable use of force.
2. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each investigator is expected to use presented guidelines to make such reasonable decisions in a professional, impartial and reasonable manner.

POLICY :

1. It is the policy of the Saratoga County SPCA Law Enforcement Incorporation investigators to use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the investigator at the time of the event to effectively bring an incident under control.
2. The amount of force used by the investigator must be consistent with the Municipal Police Training Council Use of Force Model Policy pursuant to Executive Law 840(4)(d)(3), Executive Law 837-t and NYCRR 6058. Reasonableness of the force used must be judged from the perspective of a reasonable law enforcement investigator/officer on the scene at the time of the incident.
3. Any interpretation of reasonableness must allow for the fact that peace/police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation.
4. Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident.
5. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer/investigator to actually sustain physical injury before applying reasonable force.

PROCEDURE:

1. Use of force or deadly force is controlled by the basic elements of a reasonable peace or police officer investigators perception and a reasonable peace or officer's response. Peace or police Officers may use only the level of force that is reasonably necessary to stop the perceived threat.
2. It is recognized that almost all incidents faced by peace or police officer investigators are not scripted, not easy to understand, or not predictable as to the outcome. It is imperative that peace or police officers use their best effort to determine the threat level and apply the corresponding response.
3. Peace or police officer investigators must use due-regard in evaluating a suspect's actions and perceived threat level. If there is reasonable doubt and time permits, seek assistance before acting. Justification for the use of force and deadly force must be limited to what is known or reasonably perceived by the peace or police officer at the time of the incident.
4. Peace or police officer investigators will not intentionally use more force than is necessary and reasonable under the circumstances. Peace or police officers may never use force in response to mere verbal provocation or abusive language directed at them. Peace or police officers must never use deadly force, except to protect his/her life, or the life of other human being.
5. Peace or police officer investigators use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the peace or police officer reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or serious physical injury under the circumstances.
6. A peace or police officer investigators may use deadly physical force to protect himself/herself or another from what he/she reasonably believes to be an imminent threat of death or serious physical injury. A peace or police officer may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction, or threatened infliction of serious physical injury or death, and reasonably believes that there is an imminent or future potential risk of serious physical injury or death to others if the suspect is not immediately apprehended. Under such circumstances, and when feasible, a verbal warning should precede the use of deadly force.

7. Regarding to chokeholds and obstruction of breathing or blood circulation, any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized.

8. Deadly force will not be used:

- a) as a warning or threat,
- b) to maim or cripple a person or
- c) on a person who has not caused or threatened to cause serious physical injury or death to another person,
- d) on a person who simply flees or evades arrest,
- e) at or from a moving vehicle, except in exigent circumstances, and
- f) ONLY in an attempt to save human life.

7. Peace or police officers investigators of the Saratoga County SPCA Law Enforcement Incorporation may use physical strength and skill and restraint devices to apply non-deadly force only. Saratoga County SPCA Law Enforcement are **not currently authorized to carry chemical weapons, electronic weapons, or impact weapons.**

8. Peace or police officers have no obligation to retreat or back down before resorting to approved use of force, including deadly force. Peace or police officer investigator may consider retreat or withdrawal where delay could make a more peaceable arrest, or stop, likely if such tactics would not increase risk to self or others. In some cases, an increased show of force may reduce the amount of force necessary to accomplish the objective.

9. Peace or police officer investigators **may not attempt to affect arrests alone** if there is substantial risk to self from the arrestee or another party unless there are no available reasonable alternatives.

10. Peace or police officer investigators use handcuffs or other restraining devices on all arrestees unless it is obviously unnecessary or impractical (e.g. the elderly, young juveniles, amputees, crippled, injured, or other applicable subjects). Peace or police officer investigators **must take reasonable precautions to protect arrestees from injury** caused by handcuffs or other restraining devices. Only restraining devices and techniques approved by the agency may be used per training received.

11. Peace or police officer investigators shall receive initial training with all less-than-lethal weapons prior to deploying such weapon when Saratoga County SPCA Law Enforcement evolve

further financially. Peace or police officers investigators will receive annual training **during the spring range on all weapons deployed.**

12. Force shall not be used by a Peace or police officer investigators for the following reasons:

- a) to extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
- b) to coerce a confession from a subject in custody;
- c) to obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required;
- 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.

13. Saratoga County SPCA Law Enforcement Peace or police officer investigator will adhere to **DUTY TO INTERVENE**. Any Peace or police officer investigator present and observing another law enforcement professional using force that he/she reasonably believes to be clearly beyond that which is objectively reasonable under the circumstances **shall intercede to prevent the use of unreasonable force**, if and when the officer has a realistic opportunity to prevent harm. A Peace or police officer investigator who observes another officer use force that exceeds the degree of force shall promptly report these observations to the Chief of Police of the Saratoga County SPCA Law Enforcement Incorporation.

14. Saratoga County SPCA Peace/Police Officer Investigators will provide or request Emergency Medical Services to render **MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE**. This will be required prior to booking or release, medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of significant pain, or who has been rendered unconscious. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another law enforcement or medical personnel (EMS). If an audio recording is made of contact or an interview with the individual, any refusal should be included, if possible.

15. Any persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain or who require a protracted physical encounter with multiple peace/police officer

investigators to bring under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter **shall be transported by ambulance to a hospital to be medically cleared before booking.**

16. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others. **Reference NYS MHY 22.09, 9.41 and 9.45. Individual shall be transported by ambulance to a hospital to be evaluated by Behavioral Health.** Be prepared to accompany the EMS personnel during transport. Ensure the hospital receives appropriate documentation, Saratoga County SPCA Law Enforcement Incorporation Mental Hygiene Law 9.41.

17. Saratoga County SPCA Law Enforcement Incorporation Peace/Police Officer Investigators who discharge a firearm, or reasonably believe they may have caused bodily injury or death to other persons by use of force or deadly force must notify their Chief of Police immediately. Officers are required to complete a written report detailing the circumstances surrounding the use of force incident. This written use of force report requirement must be met even though other required reports may have already covered the situation. In incidents where investigators cause, or are alleged to cause, a physical injury or death through the application of force, they must first call for medical assistance, secure the scene as well as possible, and then notify the Chief of Police. Upon arrival, the Chief takes charge of the scene and will conduct an investigation concerning the incident. In incidents involving the use of force, all investigators will assist in every way possible with the investigation. Any report required by this policy receives executive review in an effort to:

- a) Protect the integrity of the facts and the evidence;
- b) Ensure that the investigator's use of force complied with all appropriate state and federal laws, and policy;
- c) Determine if the investigator's use of force indicates a need for special counseling, training, or disciplinary action;
- d) Determine whether the situation requires further action; and
- e) Evaluate the need for additional or future, training.

18. The Chief should respond to any incident in which there has been a reported application of force. The Chief's responsibilities include, but are not limited to the following:

- a) Obtain the basic facts from the involved officer(s),

- b) Ensure that any injured parties are examined and treated,
- c) Separately interview the subject(s) upon whom force was applied,
- d) Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas,
- e) Identify any witnesses not already included in related reports,
- f) Review and approve all related reports,
- g) Ensure that all investigators present submit a report
- h) Complete the "Supervisor" portion of the "Use of Force" report and submit it to DCJS.

19. If the Chief determine that any application of force was not within policy, the Chief will conduct a separate internal complaint investigation. In the event that the Chief is unable to respond to the scene of an incident involving the reported application of force, the Chief is still expected to complete as many of the above items as circumstances permit.

20. Each investigator who witnessed the incident or responded to the scene must complete a written report. These witness reports must be completed as soon as possible and filed with the Chief of Police or designee.

21. Investigators shall be required to make notification to the Chief when any of the following events are initiated by an investigator:

- a) Brandishing of a firearm at or in the direction of another person;
- b) Displaying of oleoresin capsicum spray;
- c) Brandishing of an impact weapon;
- d) Brandishing of an electronic control weapon;
- e) 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.

22. Investigators shall document the details of the event in a case narrative. Should any of the above events result in a situation requiring that a use of force report be completed the above described event can be detailed there and no additional reporting shall be required.

23. Investigators who actually used or employed deadly force will be relieved of duty at the scene, and follow-up action handled in accordance post-shooting procedures. Refer to the wellness program, critical stress debriefing and counseling services.

24. All reports completed by the investigator using force, other officers or witnesses must include the following:

- a) A description of the events leading to the use of force or deadly force;
- b) The original offense or probable cause for the stop or action;
- c) An accurate description of the incident and reasons for employing force;
- d) A description of the weapon or device used and the manner in which it was used;
- e) A description of the injuries suffered, and the treatment given or received;
- f) A list of all participants and witnesses to the incident; and
- g) A copy of all incident reports compiled because of the incident.

25. In reference to NYS Executive Law 837-t, it is required for law enforcement to report any occurrence in which a peace/police officer employs use of force as noted below:

- a) When an officer engages in conduct which results in the death or serious bodily injury to another person.
- b) Serious body injury is described as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty,
- c) When one of the following is initiated by an officer:
 - I. Brandishes, uses or discharges a firearm at or in the direction of another person;
 - II. 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;
 - III. Displays, uses or deploys a chemical agent, including, but not limited to oleoresin capsicum, pepper spray or tear gas;
 - IV. Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy;
 - V. Brandishes, uses or deploys an electronic control weapon.

26. The Chief of Police or his/her designee will be responsible for reporting the required information to DCJS in the situations that meet the criteria as indicated above.

27. The Chief of Police or his designee investigates all allegations of improper use of force and deadly force. In cases where possible criminal acts are involved, the appropriate law enforcement agency or prosecutor office must be notified.

28. A person may use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless:

- a) The latter's conduct was provoked by the actor with intent to cause physical injury to another person; or
- b) The actor was the initial aggressor; except that in such case the use of physical force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force; or
- c) The physical force involved is the product of a combat by agreement not specifically authorized by law.

29. A person may not use deadly physical force upon another person under circumstances specified unless:

- a) The actor reasonably believes that such other person is using or about to use deadly physical force.
- b) Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating;
- c) except that the actor is under no duty to retreat if he or she is:
 - I. in his or her dwelling and not the initial aggressor; or
 - II. a police officer or peace officer or a person assisting a police officer or a peace officer at the latter's direction, acting pursuant to section 35.30; or
 - III. He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible criminal sexual act or robbery; or
 - IV. He or she reasonably believes that such other person is committing or attempting to commit a burglary, and the circumstances are such that the use of deadly physical force is authorized by subdivision three of section 35.20.

30. Conclusion, the mentioned above will be reviewed annually as part of In-Service Training. New hires will familiarize selves of all procedures and provide the Chief of Police a signed certification letter confirming that all procedures have been reviewed.