


Use of Force

300.1 POLICY AND ACCREDITATION DECLARATIONS

	Approved By:	Sheriff Kevin J. McConville
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	LE Accreditation Standards: 20.1, 21.1, 33.1, 40.2, 43.8, 58.2	

300.2 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 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.

300.2.1 DEFINITIONS

Definitions related to this policy include:

Brandish - For Use of Force reporting purposes, brandish means to point at a person or persons.

Deadly Physical force - Physical force which, under the circumstances which it is used, is readily capable of causing death or serious physical injury (Executive Law 840) [NYS Penal Law Article 10, Section 10 [11].

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.

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 themselves 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.

Objectively Reasonable - An objective standard used to judge a deputy'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 based on the totality of the facts that are known to the deputy at the time that the force was used.

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300.3 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. 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 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 Putnam 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.

300.3.1 DUTY TO INTERVENE AND REPORT

Any deputy present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force.

Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.3.2 PERSPECTIVE

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.

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Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy 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 deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies 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.

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

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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, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

300.4.1 ALTERNATIVE TACTICS - 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).

300.4.2 USE OF FORCE TO EFFECT AN ARREST

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 he or she reasonably believes to have committed an offense, may use physical force when and to the extent they reasonably believe such to be necessary to effect an arrest, or to prevent escape of a person from custody, or in self-defense or to defend a third person from what they reasonably believe to be the use or imminent use of physical force (Penal Law § 35.30).

Force shall not be used by an deputy (Executive Law § 840):

- (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 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.

300.4.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy 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 deputies or others.
- (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.

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- (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.

300.4.4 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 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.

300.4.5 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 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

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restricted. Deputies are encouraged to use techniques and methods taught by the Putnam County Sheriff's Office for this specific purpose.

300.5 DEADLY FORCE APPLICATIONS

When reasonable, the deputy shall, prior to the use of deadly force, make efforts to identify themselves as a deputy 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 themselves or others from what the deputy reasonably believes is an imminent threat of death or serious bodily injury.
- (b) A deputy may use deadly force to stop a fleeing subject when the deputy 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 deputy reasonably believes that there is an 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 should precede the use of deadly force, where feasible.

However, a deputy should not use deadly force against a person whose actions are a threat solely to themselves or property.

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.

300.5.1 MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

When feasible, deputies should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.6 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

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articulate the factors perceived and why the deputy believed the use of force was reasonable under the circumstances. The report shall be submitted to the member's Supervisor.

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). See the Report Preparation Policy for additional circumstances that may require documentation.

[See attachment: PCSO Use of Force Report.pdf](#)

300.6.1 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 deputy 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.
- (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 was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.7 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 the individual 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

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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 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, 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.

See the Medical Aid and Response Policy for additional guidelines.

300.7.1 ADDITIONAL STATE REQUIREMENTS

A deputy should 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.

Deputies should document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

300.8 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, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived their *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should 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.

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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.
 1. Supervisors should require that deputies 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 should 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.

300.8.1 ADDITIONAL SUPERVISOR RESPONSIBILITIES

The Division Captain shall review each use of force by any personnel within their command to ensure compliance with this policy and to address any training issues.

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

The Supervisor shall forward all completed Use of Force Reports to the First Sergeant and the Division Captain, the First Sergeant shall ensure that reports are submitted to the DCJS when a deputy (Executive Law § 837-t; 9 NYCRR 6058.3):

- (a) Brandishes, uses, or discharges a firearm at or in the direction of another person.
- (b) Displays, uses, or deploys a chemical agent or control device, including but not limited to oleoresin capsicum (OC), pepper projectiles, tear gas, batons, or kinetic energy projectiles (see the Control Devices Policy).
- (c) Brandishes, uses, or deploys an impact weapon.
- (d) Brandishes, uses, or deploys an electronic control weapon, including an electronic stun gun, flash bomb, or long-range acoustic device (see the Conducted Energy Device Policy).
- (e) Engages in conduct which results in the death or serious bodily injury of another person.

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The Division Captain shall forward a copy of the Use of Force Report to the Undersheriff for review and retention.

300.9 TRAINING

Deputies shall receive annual training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, deputies should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

300.9.1 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intervene.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).
- (g) Applications of conflict prevention, conflict resolution and negotiation, and any other training required by the Municipal Police Training Council 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 office website (Executive Law § 840).

Attachments

PCSO Use of Force Report (rev 05062020).pdf

Date/Time of Occurrence:	MM/DD/YYYY	Time (Mil)	Location of Occurrence:			
Sworn Members Involved		PC#	Role	Name	PC#	Role
1				4		
2				5		
3				6		
Subject Name	D.O.B.	<input type="checkbox"/> Injured by Use of Force –Description of Injuries Caused by Use of Force				EMS Yes No
Race:	Sex:	Age:				Hospital Yes No
Clothing Worn By Subject:			First Aid to Subject:			

Mechanism 1 (order of deploy, if ascertainable)	Mechanism 2	Mechanism 3
Type:	Type:	Type:
Used By Sworn Member No:	Used By Sworn Member No:	Used By Sworn Member No:
Make:	Make:	Make:
Model:	Model:	Model:
S/N:	S/N:	S/N:
Approx. Dist. to Subject (feet):	Approx. Dist. to Subject (feet):	Approx. Dist. to Subject (feet):
Impact Location:	Impact Location:	Impact Location:
Taser – Drive–Stun or Probe:	Taser – Drive–Stun or Probe:	Taser – Drive–Stun or Probe:
Taser – Cartridge Type:	Taser – Cartridge Type:	Taser – Cartridge Type:
Taser – Cartridge S/N:	Taser – Cartridge S/N:	Taser – Cartridge S/N:
Brandished/Used	Brandished/Used	Brandished/Used
Brought Subject Under Control:	Brought Subject Under Control:	Brought Subject Under Control:

Justification for Use of Force	
Weapon Possessed by Subject:	Subject Involved In Offense <input type="checkbox"/> (highest charge):
Actions of Subject Prompting Use of Force (including any escalation):	

Additional Narrative

Reporting Sworn Member			
Rank:	Name:	PC #:	Date:
			Time: (Mil)
Signature:		Reported to DCJS:	<input type="checkbox"/> Yes
Reviewing Supervisor:		PC #:	Date:
			Time: (Mil)