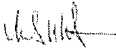


Cattaraugus County Sheriffs Office General Order

BY ORDER OF: SHERIFF TIMOTHY S. WHITCOMB 		Subject: USE OF FORCE				Policy: A29	
Effective: July 21, 2008		Section: ADMINISTRATION					
Rescinded:		Amended: October 30, 2020		Standard(s): 20.1, 20.4			
Reviewed:	9/1/2011	9/6/2013	12/2017				

PURPOSE:

Law enforcement officers around the country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. Federal, constitutional and state statutory standards dictate when and how much force can be used. This policy is founded in these standards, and is intended to direct the actions of the Cattaraugus County Sheriff's Office.

POLICY:

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness. Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the United States Constitution 4th Amendment standard of objective reasonableness. The amount of force that is used by the deputies of the Cattaraugus County Sheriff's Office 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 is intended to provide deputies 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." This policy is written in recognition of 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 a careful balancing of all interests.

Deputies of the Cattaraugus County Sheriff's Office are expected to only use force in a lawful and justifiable manner. This means the unnecessary use of force or the use of force in an excessive or unreasonable amount or to use force in a cruel manner is an unjustified use of force and violates this policy.

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DEFINITIONS: A. **Objectively Reasonable** – An objective standard used to judge an officer’s actions. 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 or impairment of the function of any bodily organ.

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.

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 the time of the event.

B. Some examples of factors that may be used in determining the reasonableness of force include, but are not limited to:

1. The severity of the crime or 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;



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7. Other environmental conditions or exigent circumstances.

DUTY TO INTERVENE:

A. Any deputy, regardless of rank, present and observing another Law Enforcement officer 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.

B. Any deputy who observes another Law Enforcement officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

USE OF DEADLY PHYSICAL FORCE:

A. Deadly physical force may be used by a deputy to protect them or another person from what the deputy reasonably believes is an imminent threat of serious physical injury or death.

B. Deadly physical force may be used to stop a fleeing suspect where:

1. The deputy has probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death; and,

2. The deputy reasonably believes that the suspect poses an imminent threat of serious physical injury to the deputy or to others.

3. If feasible and if to do so would not increase the danger to the deputy or others, then a *verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.*

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PROHIBITED USES OF FORCE:

A. Force shall not be used by an officer 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 cells, 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.

5. Even when deadly force is permitted, officers should assess whether its use creates a danger to third parties that outweighs the likely benefits of its use.

REPORTING, REVIEWING & INVESTIGATING 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.

B. Members involved in use of force incidents as described in CCSO General Order A31 & as directed by NY Executive Law 837-t, shall notify their supervisor as soon as practicable and shall complete a departmental use of force report.

C. Any member of the Cattaraugus County Sheriff's Office who takes action that results in or is alleged to result in injury or death of another person, shall notify a supervisor who in turn shall respond to the scene and initiate an investigation into the matter, utilizing GO 31 and GO 32 as necessary.

D. Consistent with agency disciplinary protocols and any collective bargaining agreements, violations of this policy will be addressed.



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TRAINING:

A. All law enforcement and corrections deputies of the Cattaraugus County Sheriff's Office shall annually receive training and demonstrate their understanding concerning the proper application of force.

B. Training topics should include use of force, NYS PL Art. 35, associated case law, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.