



SAUGERTIES POLICE DEPARTMENT
DEPARTMENT POLICY AND PROCEDURES

This policy is being issued on the date shown below and is subject to change.
This policy supersedes any and all previous policies issued regarding specific issues.

BY ORDER OF: **Joseph A. Sinagra Chief of Police**
POLICY 1st ISSUED: **07/16/2015**
POLICY LAST REVISED: **08/20/2019**

**POLICY
NUMBER**

4025

POLICY: REPORTING AND INVESTIGATING USE OF FORCE

PURPOSE: The purpose of this policy is to provide officers and their supervisors with guidelines for reporting and investigating use of force. In order to protect citizens and employees, the Saugerties Police Department is committed to documenting and investigating use of force incidents.

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and preserve the integrity of the Saugerties Police Department. As such, it is this Department's policy that officers report ALL use of force incidents, as designated herein, in a timely, complete, and accurate manner, as prescribed by this policy. Any officer who uses force, is a witness to a use of force incident, or who authorizes conduct leading to the use of force incident shall not be allowed to conduct the review/investigation.

I. DEFINITIONS:

Critical Firearm Discharge: When a Saugerties Police Officer discharges a firearm. (*Range and training discharges, and discharges at animals, are not included under this section.*)

Force: Any physical strike, or contact with an instrument, of a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes: aiming of a firearm, discharge of a firearm, use of chemical agents, use of impact weapons, use of an Electronic Control Device (ECD), taking a subject to the ground, and any physical contact that includes control techniques. (*The term does not include escorting or handcuffing a person with minimal or no resistance.*) Use of force is lawful if it is **objectively reasonable** under the circumstances, and if the minimum amount of force that is necessary is used to affect an arrest or protect the officer or other person.

Harm: Injury inflicted upon a person, whether visible or not.

Hard Hand Control: Impact oriented techniques that include knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal nerve (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).

Deadly force: Any physical force that can reasonably be expected to cause death or serious physical injury. Officers must understand that lethal physical force is an extreme measure and shall only be used in accordance with the law.

Non-Deadly force: Any use of force not intended to cause, nor likely to cause, death



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or serious bodily harm.

Reportable use of force: All force used above non-resistant compliant handcuffing with the exception of drawing a firearm at low ready position. While it does not include un-resisted (cooperative) handcuffing, it does include handcuffing individuals to objects.

Resisted Handcuffing: When a person actively resists being placed in handcuffs and the officers must use "soft hand controls" to gain compliance by forcibly moving the subject's wrists or arms, or to physically maneuver the subject's body so the handcuffs can be applied. The "resistance" may range from an active struggle to a person simply "locking" his/her arms to prevent compliant handcuffing. Conversely, "un-resisted (cooperative) handcuffing" occurs whenever the subject complies with the officer's verbal commands and/or unresistingly allows the officers to position their arms in order to apply handcuffs, or the subject positions their arm as commanded for the application of handcuffs.

Serious bodily Injury: Injury that causes death or creates a substantial risk of death, permanent harm to health, disfigurement, permanent loss of functions by any organ in the body, or results in inpatient treatment at a medical facility. Note: minor treatment by medical professionals on scene or at a hospital such as eye-washing, cleansing, and bandaging; evaluation with no injury discovered; etc., will be evaluated on a case-by case basis by a supervisor, and absent extenuating circumstances, may not be designated as serious bodily harm.

Serious Use of Force: Any action by an officer that involves: 1) the use of deadly force, including all critical firearm discharges; 2) a use of force in which the person suffers serious bodily injury, or requires hospital admission; 3) a canine bite; and 4) the use of chemical spray or Electronic Control Device against a restrained person.

Soft Hand Control: The use of physical strength and skill in defensive tactics to control subjects that are reluctant to be taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.

Supervisor: A supervisor includes a Sergeant and above who is assigned responsibility for supervising officers.

Weapon: Any instrument, article, or substance, including a vehicle, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other bodily injury.

II. PROCEDURE:

A. Force Levels

1. Level 1

- a. A firearm is intentionally pointed at a person.
- b. A weaponless defense technique is applied to a vulnerable area,



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excluding strikes (e.g., hair grab, pressure to mastoid or jaw line; and shoulder muscle grab).

c. An on-duty firearm discharge to dispatch an injured animal; or

d. A weaponless defense technique control hold is applied:

- (1) Escort (elbow).
- (2) Twist lock.
- (3) Arm-bar; or
- (4) Bent wrist.

NOTE: Un-resisted handcuffing is not considered a reportable use of force.

2. Level 2

a. Chemical agent is applied to a person.

b. The use of an ECW involving any of the following circumstances.

- (1) Brandishes an ECW
 - (2) When one or more probes impacts or penetrates the subject's clothing or skin.
 - (3) When the push stun arc touches the subject's clothing or skin.
- or
- (4) An ECW is fired at a person but misses.

c. Any impact weapon, including specialty impact munitions, or any other instrument is used in an attempt to strike another person, but **no contact is made**; or

d. The impact weapon is used for a non-striking purpose (e.g., prying limbs, moving, or controlling a person).

e. A weaponless defense technique, other than control holds, but excluding strikes to the head. Examples include:

- (1) Hand/palm/elbow strikes.
- (2) Kicks.
- (3) Leg sweeps; and
- (4) Takedowns.

f. An on-duty firearm discharge at an animal, other than to dispatch an injured animal.

g. Any strike to the head (except for an intentional strike with an impact weapon).

h. Chokehold or neck restraint is applied that does not result in the loss of consciousness.

i. Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and **contact is made**, regardless of injury.

j. A police canine bites the clothing or the skin of a subject, or otherwise injures a subject.

k. Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first aid) or hospital admittance.



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Note: For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency medical treatment.

3. Level 3

- a. Any use of force resulting in death.
- b. Any critical firearm discharge regardless of injury.
- c. Any force which creates a substantial risk of causing death.
- d. Any force which causes serious bodily injuries as identified in section II of this policy
- e. Any intentional impact weapon strike to the head.
- f. Any use of force investigation that is elevated to a Level 3

B. RESPONSIBILITY FOR REPORTING

1. Officers shall, as soon as possible, notify their shift supervisor of any Reportable use of Force.
2. Officers shall, as soon as practicable; following all reportable Level One and Level Two use of force incidents, complete a Use of Force Report Form.
3. In Level One and Level Two the completed Use of Force Report Form shall be submitted to the shift supervisor prior to the officer completing his/her tour of duty. When completing the report, officers are also required to provide a written narrative statement of the event. The following additional procedures shall apply:
 - a. Each officer who uses force shall submit a separate written Use of Force Report. The officer must articulate, in specific detail, the facts and circumstances surrounding the force used.
 - b. Any officer who witnesses a reportable use of force shall advise a shift supervisor, or appropriate commanding officer and shall submit required supplemental reports.
 - c. If an officer uses force on more than one subject during the same event, the officer shall complete separate Use of Force Report Forms.
 - d. If an officer is unable to complete the report due to injury or illness, the officer's immediate supervisor will complete it to the extent possible.
 - e. A reportable use of force shall be reviewed and investigated by a supervisor of a higher rank than the officer using force (the reporting officer).
4. All use of force reports shall specify the actions of the suspect that necessitated the use of force, the reasons why the officer(s) used force, as well as any suspect or officer complaints of injury, medical treatment received, or refusal of medical treatment.
5. The arresting officer shall notify transporting officers if force was used on the arrestee or if the arrestee has an injury or complains of pain.
6. Shift supervisors shall investigate and report any reportable use of force as directed in Section (C) of this policy.



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7. Any officer(s) who engages in or witnesses a reportable use of force but fails to notify a shift supervisor and/or fails to complete the form as outlined by this policy, shall be subject to disciplinary action.

8. A supervisor who uses force, authorizes the use of force, authorizes conduct leading to the use of force, or is a witness to the use of force shall not be allowed to conduct the investigation.

9. Officers who are the subject of an allegation of excessive force shall immediately notify a shift supervisor to document the incident as a citizen complaint against personnel. The supervisor shall investigate the incident in accordance with applicable policies.

C. REFERRAL/TRANSPORT FOR MEDICAL ATTENTION

1. Arresting and transporting officers shall ask prisoners, against whom force was used, whether they are injured or ill.
2. A suspect shall be examined by a physician or qualified health care provider prior to interrogation or prisoner processing for purposes of detention when suffering from, or complaining of, injury or illness or when, among other instances, the individual:

- a. is struck on the head or other body parts with an impact weapon or other hard object.
- b. is restrained about the neck or throat.
- c. is sprayed with a chemical agent.
- d. is subject to an ECW application.
- e. is struck with any non-lethal weapon projectile such as an ECW dart, bean bags, or sting ball, or any less than lethal round
- f. is bitten by a police canine.

3. An injured prisoner shall not be admitted to, or held in, detention without being examined and released by a physician or qualified health care provider.

a. Whenever there is doubt concerning the need for medical attention, it should be resolved through examination of the subject by a physician or qualified health care provider.

b. Refusal of treatment shall be documented and verified by the officer's and attending physician or qualified health care provider.

D. SUPERVISORY RESPONSIBILITIES

1. General

a. The Supervisor, after being notified of a Level 2 or 3 use of force, shall immediately respond to the scene and conduct a preliminary investigation into the use of force. The supervisor, after being notified of a Level 3 use of force, will immediately notify the chain of command up to and including the Chief of Police.

b. While at the scene of a use of force the supervisor shall visibly inspect



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the subject(s) for injury, interview the subject for complaints of pain, and ensure that the subject receives needed medical attention.

c. While at the scene of a use of force the Supervisor, or designated investigative unit, will photograph or videotape all claimed or visible injuries, and all areas where the officer reports striking the subject. Photographs of the subject shall be taken even when there are no signs of injury.

d. The Supervisor shall, within a reasonable amount of time after being notified of a reportable use of force, obtain a Use of Force case number from Dispatch. This number shall be use to document and track use of force incidents and the supervisor's use of force investigation.

2. Use of Force Investigation

- a. When notified of a Level 2 use of force the supervisor will respond to the scene on a priority basis and shall do the following:
 - (1) document, as necessary, the scene of the incident.
 - (2) interview any physician or qualified health care provider concerning the injuries sustained and their consistency with uses of force reported.
 - (3) collect or cause to be collected all evidence of use of force.
 - (4) identify and interview witnesses other than officers as appropriate.
 - (5) obtain, review, and sign the completed Use of Force Report Form from each officer prior to the end of the tour of duty.
 - (6) forward a copy of the signed completed Use of Force Report Form to the Lieutenant prior to the end of the tour of duty.
 - (7) Summarize his or her investigation and findings
- b. The Lieutenant shall review supervisor's Level 2 reports/reviews and upon approval, forward the reports to the Captain for review/approval within 7 calendar days.
- c. The Captain shall review supervisor's Level 2 reports/reviews and upon approval, forward the reports to the Chief for review/approval within 7 calendar days.

4. Serious Use of Force

- a. In cases involving a serious use of force or Level 3 as defined by this policy, the supervisor shall:
 - (1) immediately respond to and secure the scene.
 - (2) ensure that officers and citizens receive appropriate medical attention.
 - (3) notify the dispatcher that an officer has been involved in a confirmed Level 3 use of force.
 - (4) document, as necessary, the scene of the incident.
 - (5) secure, or cause to be secured, all evidence of use of force for appropriate processing by the investigative units.
 - (6) identify witnesses, both officer and civilian, and ensure that they are segregated for interview by investigating units.
 - (7) As soon as possible, secure the weapon(s) used by the involved officer(s)



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- b. Communications Personnel will immediately notify the Chain of Command and Chief of Police. The Chief of Police will initiate an Internal Affairs investigation to determine whether the officer(s) followed policy.
- c. The Investigation shall be conducted consistent with the approved Level 3 investigation and Officer Involved Shooting Policy (*SOP 1001.00 Investigation of Deadly Force Deployment*).

D. OPERATIONS – RESPONSIBILITIES – (Administration)

- 1. Ensure that supervisors responded to the scenes of reportable use of force as required.
- 2. Review Use of Force investigations submitted by the immediate supervisor, and:
 - a. Verify that all applicable Use of Force Report Forms and accompanying paperwork were submitted within the specified timelines.
 - b. Ensure that the Use of Force Report Forms and accompanying paperwork was reviewed and signed by the immediate supervisor.
 - and
 - c. Verify that the use of force is reported accurately and completely, and that all information concerning the incident/arrest is consistent in all reports.

(1) Where there are discrepancies between the reports, or the Captain/Lieutenant determines that further investigation is required, he/she shall return the investigation to the appropriate supervisor for corrections, clarification, and additional investigative steps as needed.

- 3. Once the investigation is approved, determine the disposition for each allegation of use of force:
 - a. **Justified, Within Department Policy** – a use of force is determined to be justified, and during the course of the incident the subject officer(s) did not violate a Saugerties Police policy.
 - b. **Justified, Policy Violation** – a use of force is determined to be justified, but during the course of the incident the subject officer(s) violated a Saugerties Police policy.
 - c. **Justified, Training Opportunity** – a use of force is determined to be justified, no Saugerties Police policy violations occurred, but the investigation revealed tactical error(s) that could be addressed through non-disciplinary, tactical improvement training; or
 - d. **Not Justified, Not within Department Policy** – a use of force is determined to be not justified, and during the course of the incident the subject officer(s) violated Saugerties Police policy.
- 4. The Captain shall submit findings and conclusions to the Chief within fifteen (15) working days.
- 5. The Captain shall hold supervisors accountable for the quality of their performance reviews and investigations.



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6. Appropriate non-disciplinary corrective action and/or disciplinary action will be taken when a supervisor fails to conduct a timely and thorough investigation, neglects to recommend appropriate corrective action, or neglects to implement appropriate corrective action.

E. RAID AND WARRANT SITUATIONS

1. Each officer who uses force will fill out a separate reportable use of force report form including pointing of firearms at subjects during raids, or execution of search and/or arrest warrants.
 - a. Officers are advised that the reportable use of force report does not take the place or substitute for the completion of an Incident Report. An incident report should be prepared, and the incident report number must be included in the Use of Force Report Form
 - b. The use of force investigations shall be conducted in accordance with and pursuant to applicable policies set forth above.

G. TRAINING:

1. The Saugerties Police shall coordinate and review all use of force policies and training to ensure quality, consistency, and compliance with applicable law and Saugerties Police Policies. Saugerties Police shall provide the appropriate training that will enhance the abilities of supervisors to conduct effective, complete, and thorough use of force investigations.