

**COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK**

GENERAL ORDER MULTI-BUREAU	DATE OF ISSUE August 19th, 2019	EFFECTIVE DATE August 19th, 2019	No. 033-19
SUBJECT: Response to Resistance/Aggression & Subject Management Resistance Report		DISTRIBUTION All Personnel	AMENDS
REFERENCE: NYSLEAP 14.4, 20.1, 20.7, 21.2, 40.2, 64.1 NYSSA-JAIL 26, 43, 73, 74, 79, 80 NYSSA-CIVIL 25, 40, 78, 79, 85 NYS Penal Law Article 35, Graham V. Connor			RESCINDS 033-14

Purpose: To define the policies of the Monroe County Sheriff's Office (MCSO) regarding the response, management and control of resistant, aggressive or non-compliant subjects and to explain the use of the MB-119 Subject Management Resistance Report (SMRR).

Policy: Members of the MCSO will use only that level of force and weaponry that is reasonable to overcome resistance, and/or aggression, or gain compliance. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, forced to make split-second judgments in circumstances that are often tense, uncertain and rapidly evolving without the benefit of 20/20 hindsight. Staff members will follow all lawful objectives in accordance with Article 35 of the New York State Penal Law. Only those members who have satisfactorily completed an agency approved training program will be authorized to carry issued weapons.

Definitions: Physical Force - Any force used against another person applied to overcome resistance and achieve compliance, including the use of agency issued and approved lethal or less-than-lethal weapons.

Deadly Physical Force - Physical force, which under the circumstances used is likely to cause death or serious physical injury.

Serious Physical Injury - Physical injury which creates a substantial risk of death, or which causes death or serious, permanent disfigurement, impairment of health, or long term loss or impairment of the function of any bodily member.

* Brandishing – Displaying a firearm and/or a less lethal weapon (ASR, Taser, Baton, etc.) in the presences of a subject for the purpose of gaining compliance.

I. General Guidelines

- A. Members of the MCSO will, in all instances, seek to employ the reasonable amount of force required to successfully overcome physical resistance, prevent escapes and effect arrests.
- B. Justification for the use of force will be reasonable and based upon the totality of the circumstances in which the force is used. The totality includes the officers' perception based on training and experience.
- C. Members using physical force on another person will ensure that their actions are consistent with current training and policies of the Sheriff's Office and:

1. Utilize only agency-issued weapons and equipment when applying the techniques of subject management.

Note: In accordance with Article 35 (NYSPL), should exigent circumstances exist, members may use such force as necessary to avoid imminent public or private injury which is about to occur.

2. Ensure that the subject has been properly restrained, or no longer poses an immediate threat to the safety and security of agency members or others. Discretion may be used if exceptional circumstances exist, such as a person who is very elderly, handicapped, etc.
3. Immediately notify their supervisor of the incident.
4. Prepare and submit a SMRR and any other reports as directed by a supervisor/command officer. The primary deputy will complete the entire SMRR and each assisting deputy using force will complete page 2 of the SMRR.

D. Rendering Aid / Post Restraint

1. After physical force is used, the member shall arrange for such treatment if the subject is injured, complains of injury or discomfort. This shall include cases where the source of injury or pain is related to the use of agency issued weapons and/or the extended wearing of handcuffs or other restraining devices.
2. Persons who are injured or who complain of injury will be evaluated by EMS personnel and transported to the hospital if necessary. Any time force is used against an inmate in the jail a duty nurse will assess the inmate for any injuries or other appropriate medical needs.
3. Restrained subjects should be positioned in an upright or seated position and should not remain in a prone position. Restrained subjects may be placed on his/her side as a recovery position if needed.
4. In cases where individuals being taken into custody refuse medical treatment, the refusal shall be documented by the respective medical staff, hospital personnel or ambulance personnel and on the SMRR.

E. Responsibilities of Supervisors and Command Officers

1. Respond to the scene of the incident immediately upon learning of a subject management.

Note: For Police Bureau incidents, if the member's immediate supervisor and Lieutenant are both not available, a supervisor and/or Lieutenant from another zone will be dispatched to the scene.

2. Ensure that members receive necessary assistance including medical treatment and that any injuries/exposures are properly documented on an Employee Injury Form in accordance with current agency directives. The original injury / exposure report(s) shall be sent to the Undersheriff's Office, through the chain-of-command, within twenty-four (24) hours.
3. Any time force is used, photographs will be taken regardless of injury. An on-duty Technician will take photographs for all use of force incidents.

Note: In the event a Technician is not available, the on-duty supervisor will designate a member to take the photographs.

4. Sergeants in all Bureaus, will conduct a thorough investigation. (In cases of deadly physical force, Internal Affairs and CIS will conduct parallel investigations.) Sergeants will identify all witnesses to the incident and obtain written statements whenever possible, including depositions and/or statements of fact. The witness information will be noted on the SMRR. The Sergeant's report must contain conclusions regarding the reasonableness of the use and level of force that is affected.

Note: If additional investigation is necessary a command officer will complete the investigation and their findings will be documented on a Special Report.

5. Sergeants and above who are at the scene of an incident at the time force is used and who themselves use force, shall defer the investigation to an equivalent or higher ranking uninvolved supervisor to conduct the subject management investigation. Simply witnessing the event does not preclude the supervisor from completing this investigation.
6. Page three (3) of the SMRR is reserved for supervisory review.

F. Administrative Assignment

1. Members involved in an incident whose action(s) or use of force results in serious physical injury or the death of another person shall be relieved of their assigned duties with pay, and placed on administrative assignment until it is deemed appropriate to return them to the original assignment.
2. The nature of the administrative assignment will be determined by the Sheriff or authorized designee.
3. The member shall be available at all times for official interviews and statements regarding the case and shall be subject to recall to duty at any time.
4. Members shall not discuss the case with anyone except members of the District Attorney's Office, their personal attorney, Union representative, or authorized department personnel as designated by the Sheriff.
5. Upon completion of the investigation the Sheriff will determine what course of action shall be taken.

II. Brandishing

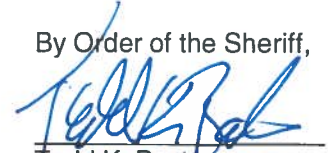
When a brandish only incident occurs, members must check "Brandish Only" and complete Blocks I, II, and III on the SMRR.

III. Review and Distribution

- A. Following first line review, the SMRR will be forwarded through the chain-of-command to the appropriate Bureau Chief. Following their review, all reports will be forwarded to the Staff Services Bureau.
- B. The Standards and Compliance Unit (SCU) will input and track data of the information from the SMRR.

- C. The Undersheriff's office will retain all investigations in Bureau specific files. Copies of reports will no longer be placed into an employee's personnel file.
- D. In addition to the preliminary review indicated above, each Bureau Chief shall, on a quarterly basis, review the compendium of incidents of use of force occurring in their respective area of responsibility, as provided by the Staff Services Bureau.
- E. The SCU will conduct a yearly analysis of all SMRR and will attempt to identify patterns or trends that may indicate a need to alter training, use of techniques, or policy positions.

By Order of the Sheriff,



Todd K. Baxter

* Indicates a significant change or addition from the previous order