



SCHUYLER COUNTY SHERIFF'S OFFICE GENERAL ORDERS	
DATE: 12/11/2020	GENERAL ORDER #209
SUBJECT: Use of Force	
AUTHORIZATION: SHERIFF WILLIAM E. YESSMAN	

OBJECTIVE: TO ESTABLISH POLICY ON THE USE OF PHYSICAL FORCE AND DEADLY PHYSICAL FORCE FOR MEMBERS/OFFICERS OF THE SCHUYLER COUNTY SHERIFF'S OFFICE.

POLICY: It is the policy of the Schuyler County Sheriff's Office that all members understand and adhere to Article 35 and the force continuum.

DETAILS:

DEFINITIONS: PHYSICAL INJURY: Impairment of physical condition or substantial pain.

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.

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.

I. Recommended Guideline

- A. This directive is for departmental use of the Schuyler County Sheriff's Office and does not apply in any criminal or civil proceeding. The policy of the Schuyler County Sheriff's Office should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of the directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.
- B. The apprehension of criminal offenders and protection must at all times be subservient to the protection of life. The member's responsibility for protecting life must include his own.

II. Justification

- A. Unless otherwise limited by the provisions of Article 35 of the New York State Penal Law, justifiable use of physical force which would otherwise constitute an offense is justifiable and not criminal when:
 - 1. Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his official powers, duties or functions.
 - 2. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue.

III. Use of Physical Force Generally

- A. The use of force upon another person that would otherwise constitute an offense is justifiable and not criminal under the following circumstances:
 - 1. A warden or other authorized official of a jail, prison or correctional institution may in order to maintain order and discipline, use such physical force as is authorized by the correction law.
 - 2. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon such person to the extent that he reasonably believes it necessary to thwart such result.
 - 3. A person may use physical force upon another person in defense of himself or a third person, or in defense of premises, or in order to prevent larceny of or criminal mischief to property, or in order to effect an arrest or prevent an escape from custody. Whenever a person is authorized by any such provision to use deadly physical force in any given circumstance, nothing contained in any other such provision may be deemed to negate or qualify such authorization.

IV. Use of Physical force in defense of a person

- A. A person may, subject to the provisions of Article 35 of the New York State Penal Law, use physical force upon another person when and to the extent he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless:
 - 1. The latter's conduct was provoked by the actor himself with intent to cause physical injury to another person.

2. The actor was the initial aggressor; except that in such case his use of physical force is nevertheless justifiable if he 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.
3. The physical force involved is the product of a combat by agreement not specifically authorized by law.
4. A person may not use deadly physical force upon another under circumstances specified above unless:
 - a. He reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he knows that he can with complete safety as to himself and others avoid the necessity of so doing by retreating; except that he is under no duty to retreat if he is:
 1. In his dwelling and not the aggressor.
 2. A police officer or peace officer or a person assisting a police or peace officer at the latter's direction, acting pursuant to Section 35.30 of the New York State Penal Law.
 - b. He reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible sodomy or robbery.
 - c. He reasonably believes that such other person is committing or attempting to commit a burglary₂ and the circumstances are such that the use of deadly physical force is authorized by subdivision 3 of Section 35.20 of the New York State Penal Law.

V. Use of physical force in defense of premises and in defense of a person in the course of a burglary

- A. Any person may use physical force upon another person when he reasonably believes such to be necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission by such other person of a crime involving damage to premises. He may use any degree of physical force, other than deadly physical force, which he reasonably believes to be necessary for such purpose, and he may use deadly

physical force if he reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of arson.

VI. Use of Physical Force to Prevent or Terminate Larceny or Criminal Mischief

A A person may use physical force, other than deadly physical force upon another person when and to the extent that he reasonably believes such to be necessary to prevent or terminate what he reasonably believes to be the commission or attempted commission by such other person of larceny or of criminal mischief with respect to property other than premises.

VII. Use of Physical Force in Making an Arrest or in Preventing an Escape

A. A police or 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 whom he reasonably believes to have committed an offense, may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force; except that he may use deadly physical force for such purpose only when he reasonably believes that:

1. The offense committed by such person was a felony involving the use or attempted use or threatened imminent use of physical force against a person.
2. The offense committed by such person was kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime.
3. The offense committed or attempted by such person was a felony and that in the course of resisting arrest therefore or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or
4. Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.
5. A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, or while in transit to or from a detention facility may use physical force when and to the

extent that he reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or there from.

VIII. Use of Choke Holds to Effect an Arrest or Detain a Subject

- A. At no time will a choke hold be used to effect an arrest or detain a subject or suspect by any member of the Schuyler County Sheriff's Office.

Note: Under emergency conditions, it is understood that a member may be forced to use any object within reach or tactic in order to defend or protect him/herself or others from the use of Deadly Physical Force.