TOWN OF EVANS
POLICE DEPARTMENT

TYPE OF DIRECTIVE	AMENDS	RESCINDS	SUPPLEMENTS
General Order	GO 20-20 (1)	None	None
INDEX UNDER	**NUMBER**	**EFFECTIVE DATE**	**DURATION**
Use of Force	GO 20-26	Sep 25, 2026	Until Rescinded
SUBJECT OF DIRECTIVE	**CHIEF's APPROVAL**	**CROSS REFERENCE**	**DISTRIBUTION**
Use of Force		GO 20; 21.1, 2; 41.3; 8.5.76	All Personnel

USE OF FORCE

PURPOSE:

The use of deadly physical force is the most serious act in which a law enforcement officer could possibly engage. It has the most far reaching consequences for all of the parties involved. It is therefore, imperative not only that the officer act within the boundaries of legal guidelines, ethics, good judgment and accepted practices, but also that the officer be prepared by training, leadership and direction to act wisely whenever using force readily capable of causing death or other serious physical injury.

This policy is not intended to create doubt in the mind of an officer at a moment when action is critical and there is little time for meditation or reflection. It provides basic guidelines governing the use of weapons so that the officer can be confident in exercising judgment as to the use of physical force.

Officers are confronted daily with situations where control must be exercised to effect arrest and to protect the public safety. Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless all other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted by the New York State Penal Law Section 35.00 to use whatever force that is reasonable and necessary to protect others and themselves from bodily harm. Officers should bear in mind that Article 35.00 of the Penal Law only authorizes use of physical force/deadly physical force, it does not command its use.

This directive is for department use only and does not apply in any criminal or civil proceeding. The department policy shall not be construed as a creation of higher legal standard of safety or care in an evidential sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violation of law will form the basis for civil and criminal sanctions and a recognized judicial setting.

Law enforcement officers in New York State are authorized to use reasonable and legitimate force in specific circumstances (NYS Penal Law Article 35). Federal constitutional and state statutory standards dictate when and how much force can be used. This policy is founded in these standards, but is not intended to be an exhaustive recitation of state and/or federal legal framework governing use of force. This policy is in accordance with Executive Law §840(4)(d)(3). This policy is not intended to endorse or prohibit any particular tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

POLICY:

No set guidelines for the use of firearms can possibly cover every situation that might arise, and every police officer is expected to respond to all such emergencies decisively with the highest level of good judgment and professional competence. Officers should have a thorough knowledge of Article 35.00 of the New York State Penal Law and should periodically review this body of law.

In applying the provisions of the New York State Penal Law officer of the Evans Police Department will be guided by the following procedures when considering the use of deadly physical force

The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.[1] The amount of force that is used by the officers 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 officers 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."[2] 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.

(1 Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness. 2 Graham v. Connor, 490 U.S. 386 at 396 (1989).)

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. [3]

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.[4]

C. Physical Injury – Impairment of physical condition or substantial pain.[5]

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.[6]

(3 Graham, 490 U.S. 396 (1989) 4 NY Penal Law § 10 (11) (McKinney 2013) 5 NY Penal Law § 10 (9) (McKinney 2013) 6 NY Penal Law § 10 (10) (McKinney 2013).)

E. De-Escalation Techniques — De-Escalation Techniques are actions taken by members that are designed to eliminate the need to use force in order to resolve any event or situation. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully.

PROCEDURES:

An officer of the Evans Police Department is authorized to use a firearm in the following circumstances if there is no other reasonable alternative available.

1. To defend himself or another person from unlawful attack when he has reasonable cause to believe there is imminent danger of death or serious physical injury.

2. To apprehend a person who is committing or has committed a crime in which deadly physical force has been used or threatened and when he has reasonable cause to believe that such person would cause death or serious bodily injury unless immediately apprehended.

3. To kill an animal or wildlife so badly injured that humanity requires that it be removed from further suffering or a dangerous animal or dogs which are attacking any person or animal.

4. For authorized target practice or competition.

Officers of the Town of Evans Police Department **SHALL NOT** use a firearm in the following circumstances:

1. To fire warning shots in order to induce a fleeing subject to halt.

2. To fire a weapon to affect an arrest, except as justified by Article 35 of the New York State Penal Law, the Fourth Amendment, and in accordance with this General Order.

3. To fire at or from a moving vehicle unless the occupants of the vehicle are using deadly physical force against the officer or another. Officers shall make every tactical effort possible to avoid placing themselves in a situation where they are in the direct path of a vehicle that can be construed as a deadly situation to the officer.

Avoidance of recklessness should be considered in any situation involving deadly physical force. Even a case where deadly physical force is both authorized by law and reasonable under the circumstances, the officer must consider the safety of innocent bystanders (e.g. firing in a crowded street).

An Evans Police Officer who injures any person through the discharge of his firearm will ensure that steps are taken to provide the injured person with necessary medical treatment.

Any Evans Police officer who discharges his firearm for any reason except for authorized target practice or competition shall, as soon as possible, submit to the Chief of Police a report in accordance with departmental procedures, which should include the following information:

1. The names and addresses of any injured persons and witnesses.

2. The extent and treatment of any injuries, the hospital where treated and/or the doctor who provided such treatment.

3. The number of shots fired and the reasons and circumstances that required the use of firearms.

FIREARMS:

Each officer shall be issued a firearm, holster and forty-five rounds of ammunition. The issued firearm shall be recorded by serial number and will be kept on file in the officer's personnel

Ammunition for onduty and offduty weapons will be authorized by the Chief of Police.

Each officer is responsible to keep his/her firearm clean, oiled and in correct working order.

Each officer shall be responsible for retaining firearms in his/her possession and will exercise the best precaution necessary for its security and care to prevent theft, loss, misuse or damage.

Any unauthorized or careless handling of a firearm by any member of the Evans Police Department is prohibited and may be cause for disciplinary action.

Officers are encouraged, but not mandated to carry a handgun when off duty. An officer who elects not to carry a handgun while offduty shall not be subjected to disciplinary action if an occasion should arise in which he/she could have taken police action is he/she were armed. (Exception) Offduty officers while operating a departmental vehicle shall be armed with an approved weapon. Officer will be required to qualify with any weapon they may carry offduty.

While on duty, all police officers shall carry only the firearm and ammunition issued to them by the department unless permission has been granted by the Chief of Police to carry a personally owned firearm while on duty.

The acquisition of any handgun, by department personnel, will require written permission from the Chief of Police, unless such acquisition is pursuant to a valid pistol permit.

Firearms training shall be required at least twice per year and in the event of any accidental discharge, the officer involved must undergo immediate firearms retraining.

USE OF FORCE:

Members of the Evans Police Department may only use that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law and consistent with training by this department. It is the responsibility of each officer to be aware of the requirements of Article 35 and to guide his/her actions based upon that law.

Generally, officers may use force in the performance of their duty in the following circumstances:

1. *To prevent the commission of a breach of the peace or other unlawful act.*
2. *To prevent a person from injuring him/herself.*
3. *To effect the lawful arrest of persons resisting arrest or attempting to flee from custody.*
4. *In self-defense or in the defense of another person.*

In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.[7]

Under the Fourth 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. (Graham, 490 US at 396, 1989)

(7 NY Penal Law and 35.30(1), McKinney 2013 8 Graham, 490 US at 396, 1989)

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. 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; [9]

2. The level and immediacy of threat or resistance posed by the suspect; [10]

3. The potential for injury to citizens, officers, and suspects; [11]

4. The risk or attempt of the suspect to escape; [12]

5. The knowledge, training, and experience of the officer; [13]

6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects; [14]

7. Other environmental conditions or exigent circumstances.[15]

(9 Ibid. 10 Ibid. 11 Scott v. Harris, 550 U.S. 372 (2007) 12 Graham, 490 U.S. at 396 (1989) 13 Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. Graham v. Connor, 490 U.S. 386 (1989), Terry v. Ohio, 392 U.S. 1 (1968) 14 Sharrar v. Felsing, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects) 15 Courts have repeatedly declined to provide an exhaustive listing of factors. Chew v. Gates, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994).)

DUTY TO INTERVENE:

A. Any officer present and observing another 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. An officer who observes another 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.

DRAWING WEAPONS

A. A sworn member of the Department is authorized to remove his/her firearm from its holster or gun mount and have it ready for immediate use, in any circumstance in which the member reasonably believes his/her life or safety may be in danger.

A sworn member of the Department may point his/her firearm at a person when the officer reasonably believes that the person poses an immediate risk of death or serious physical injury to any other person.

Only approved equipment will be carried on duty and used when applying physical force except in an emergency when the officer may use other resources at his disposal.

USE OF DEADLY PHYSICAL FORCE

A. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.[16]

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

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

3. Where feasible, some warning should be given prior to the use of deadly physical force.[17]

C. Chokeholds and Obstruction of Breathing or Blood Circulation

1. Any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing, reduce intake of air or obstruct blood circulation, is prohibited unless deadly physical force is authorized.[18]

(16 NY Penal Law and § 35.30(1)(c)(McKinney 2013) 17 NY Penal Law and § 35.30(1), as restricted by Tennessee v. Garner, 471 U.S. 1 (1985) (restricting the use of deadly physical force as it relates to Pleeing felons) In Garner, the Supreme Court uses "signiPicant threat of serious physical harm, either to the ofPicer or others" in describing the limited circumstances under which deadly force can be used to prevent the escape of a felon. 18 NY Penal Law § 121.13-a establishes the crime of Aggravated Strangulation.)

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.

B. Retaliatory Force. Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other reason.

UNNECESSARY FORCE DEFINED

Unnecessary force occurs when unjustified physical abuse of a person has occurred or when it is apparent that the type or degree of force employed was neither necessary nor appropriate, or when any degree of force is utilized as summary punishment or vengeance. The use of indiscriminate force is prohibited.

REPORTING *AND REVIEWING*:

A. After physical force is used, the officer shall immediately evaluate the need for medical assistance *and/or mental health needs of a person in custody, and if necessary, arrange for such attention and/or treatment, which are reasonable and provided in good faith.[19] This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others.[20]*

B. Notification to the Shift Supervisor will be made as soon as practicable, followed by a Department Use of Force Report. This shall apply to any of the following:

1. Use of force that results in a physical injury.

2. Use of force incidents that a reasonable person would believe is likely to cause an injury.

3. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.

4. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed.

5. Incidents where a firearm was discharged at a subject.[21]

C. The Town of Evans Police Department Use of Force Report form shall be used to document any reportable use of force incident, and shall be completed and submitted in accordance with all other General Orders. The individual officer(s) involved in a use of force incident shall be responsible for reporting the use of force incident to DCJS.[22]

D. Officers should document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment.

(19 NY Civil Rights Law § 28; 20 NY Mental Hygiene Law § 9.41; 21 NY EXC § 837-v requires that any discharge of a weapon, while either on duty or off duty, in the direction of a person be verbally reported to the involved ofPicer's supervisor within six hours and a written report prepared within forty-eight hours of occurrence; 22 Chiefs of police departments, County Sheriffs, and the Superintendent of State Police should consider utilizing these forms to ensure compliance with the administrative reporting requirement of EXC §837-t.)

USE OF FORCE *REPORTING REQUIREMENTS*

Additionally, in accordance with the provisions of section 837-t of the State of New York Executive Law, pertaining to law enforcement agencies within New York State reporting use of force incidents to the Division of Criminal Justice Services (DCJS), the Town of Evans Police Department shall report use of force incidents as set forth in this General Order. A copy of Executive Law 837-t is attached to this General Order.

For reporting purposes, Executive Law 837-t requires each police department, county sheriff, and the state police to report any occurrence in which a police officer or peace officer employs use of force as listed below:

A. When an officer engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

B. When one of the following is initiated by an officer:

1. Brandishes, uses or discharges a firearm at or in the direction of another person;
2. Uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air;
3. Displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas;
4. Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy;
5. Brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb, or long range acoustic device.

**See definition of "Brandish", under DEFINING USE OF FORCE REPORTING INCIDENTS*

DEFINING USE OF FORCE REPORTING INCIDENTS

The Division of Criminal Justice Services (DCJS) convened a panel of key stakeholders to define the terms of reportable Use of Force incidents in order to assist agencies with reporting by providing clarity of the terms used in the statute. The NYS Municipal Police Training Council (MPTC) endorsed these definitions for the Use of Force reporting.

The following Use of Force incidents must be reported:

***Display a chemical agent** - To point a chemical agent at a person or persons.*

***Use/Deploy a chemical agent** - The operation of the chemical agent against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.*

***Brandishes a firearm** - To point a firearm at a person or persons.*

***Uses/Discharges a firearm** - To discharge a firearm at or in the direction of a person or persons.*

***Brandishes an electronic control weapon** - To point an electronic control weapon at a person or persons.*

***Uses/Deploys electronic control weapon** - The operation of an electronic control weapon against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.*

Brandishes an impact weapon *- To point an impact weapon at a person or persons.*

Uses/deploys an impact weapon *- The operation of an impact weapon against a person or persons in a manner capable of causing physical injury as defined in Penal Law Article 10.*

Uses a chokehold or other similar restraint *- Any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.*

Conduct which results in the death or serious bodily injury of another person *– Serious bodily injury includes bodily injury that creates or causes:*

- *a substantial risk of death; or*
- *unconsciousness; or*
- *serious and protracted disfigurement; or*
- *protracted loss or impairment of the function of any bodily member, organ or mental faculty.*

These definitions are based on the administrative reporting requirements outlined in Executive Law §837-t. The MPTC Model Use of Force Policy should be used to guide an agency's compliance with the Use of Force policy requirements delineated in Executive Law §840(d)(3). An agency may use its standardized Use of Force form to assist with the NYS Division of Criminal Justice Services administrative reporting requirements laid out in statute and regulations. However, such administrative reporting requirements do not replace the requirements set forth in Executive Law §840(d)(3), which requires agencies to develop a use of force policy consistent with the MPTC's Use of Force Policy.

Accessing the Use of Force Reporting Interface

The Use of Force Reporting Interface is accessible through the IJ Portal, a secure site that requires a username and password to access. All new requests for IJ Portal accounts must be coordinated through an agency's designated Terminal Agency Coordinator (TAC). TACs can use the "Feedback" link in the IJ Portal or email portalhelpdesk@ejusticeny.gov with any questions about access.

Instructions for accessing the Interface and submitting monthly Use of Force incidents are attached and available on the DCJS website:

https://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/use-of-force.htm

Please contact DCJS at useofforce@dcjs.ny.gov for more information and/or questions about the use of force reporting process.

Individual Officers involved in use of force incidents are responsible for reporting information for use-of-force incidents that meet the above criteria to DCJS. Law enforcement agencies are required to submit details of the incident to DCJS, including, but not limited to, date of incident, agency involved, county, town/city, description of circumstances, and demographics of all persons engaging in the use of force or suffering such injury.

INVESTIGATING USE OF FORCE INCIDENTS

A. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.

B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.

C. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.

D. The [applicable person, unit, or bureau] will receive the supervisor's report and conduct an investigation.

E. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines. [23]

(23 EXC §840(4)(d)(2)(vi).)

UNAUTHORIZED NONLETHAL WEAPONS

The carrying or use of any instrument as an offensive or defensive weapon, not specifically authorized or issued as a weapon by the Evans Police Department is **PROHIBITED**. Examples of unauthorized weapons include but are not limited to the following:

Blackjacks, weighted gloves, mace and brass knuckles.

Flashlights are not authorized as an offensive weapon to quell resistance except in extreme cases when no other adequate instrument is available.

USE OF OLEORESIN CAPISCUM FOG SPRAY:

1. The use of Federal Laboratories Oleoresin Capsicum (OC) Fog Spray is authorized for Police Officers as an alternative force.

2. The use of OC spray will be limited to that degree of force which is reasonably necessary to provide protection for the Officer or another person, and/or to affect a legal arrest.

3. Each Police Officer who successfully completes authorized training in the possession and use of OC sprays will be issued the Departmental authorized OC spray.

4. Each Police Officer will be responsible for retaining the OC spray in their possession and will exercise necessary Precautions for its security.

5. In all cases where OC spray has been used as an alternative force, a Use of Force Report shall be submitted. The report must be submitted prior to the end of the officer's tour of duty in which the OC spray was used.

USE OF POLICE BATON:

1. The use of the police baton is a legal right granted to police officers as an alternative force in those situations where the potential for serious injury to an officer or citizen exists but where the use of a firearm may be considered extreme.

2. The use of the police baton will be limited to that degree of force which is reasonably necessary to provide protection for the officer or another person, and/or to affect a legal arrest.

3. Each officer shall be issued a police baton.

4. Each officer will be responsible for retaining the police baton in their possession and will exercise the necessary precautions for its security as is required to prevent its theft, loss or misuse.

5. The police baton shall be carried in the belt ring and will not be unnecessarily brandished.

6. In all cases where the police baton has been used as a weapon, a use of force report will be submitted. The report must be submitted prior to the end of the officers' tour of duty in which the baton was used.

7. Further investigation of the incident will be undertaken at the direction of the Chief of Police, whenever warranted.

USE OF RESTRAINING DEVICES:

Use of restraining devices is mandatory on all prisoners unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary. The mere placing of handcuffs on a prisoner will not be construed to be the use of physical force. However, when the handcuffs become an appliance to exert force necessary to further subdue a prisoner or where the suspect physically resists the application of handcuffs, a use of physical force has occurred, and the necessary reports must be completed.

USE OF ELECTRONIC CONTROL DEVICE - TASER X26 (ECD)

1. The use the ECD is authorized for police officers as an alternative force.

2. The use of the ECD will be limited to that degree of force which is reasonably necessary to provide protection for the officer or another person, and/or to affect a legal arrest.

3. ECDs shall only be used by officers who have received the required course of instruction and have successfully completed the training prescribed by Taser International and the Town of Evans Police Department.

4. Each police officer will be responsible for the ECD in their possession and will exercise necessary precautions for its security.

5. In all cases when the ECD has been used as an alternative force, a Use of Force Report shall be submitted by the end of the officer's tour of duty.

SECURING OF DEPARTMENT WEAPONS AND AMMUNITION

It is the policy of the Town of Evans Police Department to secure all weapons and ammunition in a locked room in a locked gun cabinet and the responsibility of the range officer. The range officer shall maintain an inventory of all departmental weapons and ammunition which will be updated each year.

TRAINING

A. All officers should receive training and demonstrate their understanding on the proper application of force.

B. Training topics will include use of force, 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. [24]

C. This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

(24 EXC §840(4)(d)(2)(vii).)

This policy shall be posted conspicuously on the department's website at www.evanspoliceny.com.

APPENDIX I.

Executive

* § 837-t. Use of force reporting. 1. The chief of every police department, each county sheriff, and the superintendent of state police shall report to the division, in a form and manner as defined in regulations by the division, any instance or occurrence in which a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, or a peace officer, as defined in section 2.10 of the criminal procedure law, employs the use of force as follows:

a. brandishes, uses or discharges a firearm at or in the direction of another person; or

b. uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air; or

c. displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas; or

d. brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy; or

e. brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb or long range acoustic device; or

f. engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ or mental faculty.

2. On an annual basis, the commissioner shall conspicuously publish on the department's website a comprehensive report including the use of force information received under subdivision one of this section during the preceding year. Such reports shall not identify the names of the individuals involved, but for each event reported, shall list the date of the event, the location disaggregated by county and law enforcement agencies involved, the town or city, and any additional relevant location information, a description of the circumstances of the event, and the race, sex, ethnicity, age, or, if unknown, approximate age of all persons engaging in the use of force or suffering such injury.

* NB Effective July 11, 2019