Use of Force:
Questions and Answers

Q: When did the Use of Force reporting legislation take effect?

A: The law took effect on July 11, 2019. To comply with the law, and its impending effective date, emergency regulations have been adopted on a continuing basis. A copy of the statute, Executive Law §837-t, may be found at:
https://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/DCJS-Guidance-on-Use-of-Force-Reporting-Requirement-Executive-Law-837-t.pdf

A copy of the most recent regulations, 9 NYCRR Part 6058, may be found at
https://www.criminaljustice.ny.gov/crimnet/ojsa/crimereporting/use-of-force-regulations.pdf

Q: Who is responsible for reporting Use of Force incidents to the Division of Criminal Justice Services?

A: Local police departments, State Police, and Sheriff's Departments in New York State.

Q: What is the definition of Brandish?

A: For Use of Force reporting purposes, required under Executive Law §837-t, the Municipal Police Training Council (MPTC) and the Division of Criminal Justice Services (DCJS) revised the definitions of brandishing to include pointing a firearm, electronic control weapon, and impact weapon at a subject.

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

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

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

Q. Why are these Use of Force definitions different than those in the MPTC Use of Force Model Policy?

A. These definitions are based on the administrative reporting requirements outlined in Executive Law §837-t. The MPTC Use of Force Model Policy should be used to guide an agency's compliance with the Use of Force policy requirements delineated in Executive Law §840(4)(d)(3). An agency may use its standardized Use of Force form to assist with the 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.

Q. What if an agency needs help determining whether a certain scenario fits into one of the Use of Force Categories?

A. Unfortunately, DCJS is not authorized to provide legal advice; however, it may provide general information. DCJS is responsible for collecting, maintaining and reporting use of force information. All discretionary determinations regarding this data are reserved for the officer or the officer's employer. Accordingly, you may wish to contact your county attorney, or other legal counsel, to analyze the facts presented and consider the totality of the circumstances to determine if an event is a reportable Use of Force incident.

Q: What Peace Officers are included within the Use of Force Legislation?

A: In accordance with Executive Law §837-t and accompanying Use of Force regulations, "Each employer shall submit all information required to be reported … to the division in the form and manner as prescribed by the division." Employer is defined as "the chief of every police department, each county sheriff, and the superintendent of state police." Statute and regulation further require those employers to report use of force instances or occurrences by police officers or peace officers employed by them. As of now, the only peace officers required to report Use of Force incidents are Peace Officers employed by a sheriff or a police department.

Q: Where do agencies report Use of Force incidents?

A: Beginning December 1, 2020, all police departments, sheriffs' offices and the New York State Police must submit use of force incidents that occur ***on or after November 1, 2020,*** through the Use of Force Reporting Interface accessible on the eJustice New York Integrated Justice Portal (IJ Portal).

The NYS Use of Force and Arrest Related Death Data Entry Interface User Guide will assist the user with submitting Use of Force incidents to DCJS.

Police departments, sheriffs' offices and the New York State Police must use the existing data collection tool to report use of force incidents occurring ***prior to November 1, 2020***. Agencies will have until ***December 15, 2020*** to submit these incidents or update incidents that they have already reported. The existing data collection tool will be discontinued as of that date. In order to access this reporting tool, please send an email request to useofforce@dcjs.ny.gov.

Q: What is the timeframe for reporting Use of Force incidents to the Division of Criminal Justice Services?

A: Agencies are expected to submit use of force incidents to the state Division of Criminal Justice Services (DCJS) no later than 30 days after a month ends (i.e. November 2020 data may be submitted beginning December 1st, but no later than the end of December).

Q: Is there a paper Use of Force incident reporting form that can be completed and printed??

A: No. DCJS does not have a printed form available. All reportable incidents must be submitted through the online reporting tool. When the interface on the eJusticeNY Integrated Justice Portal (IJPortal) is operational, all incidents will then be required to be submitted though the IJPortal.

Q: Can agencies review/print out the Use of Force data they have submitted through the online reporting tool?

A: The Use of Force Reporting Interface on the eJusticeNY Integrated Justice Portal (IJPortal) allows users to view and print use of force incidents reported by their agency.

The user can use the "print screen" feature on their computer to print out the details of the incident.

Users can also access the Use of Force Agency Report within Reporting Services by following the path – Resources >> Reporting Services >> Reports for External Customers >> USEOFFORCE_REPORTS. The user will select the year and month (or all months, if desired). The request will generate a report with all incidents that have been submitted for that time period. The user can save and print the report listing all their incidents. Users can also click on the individual incident numbers (blue hyperlink) to view the details of the incident.

If the user needs to modify any of the incident information, they will follow the steps in the user manual.

Please note: *Only DCJS staff will have the ability to delete previously submitted incidents.*

Please send an email request to useofforce@dcjs.ny.gov if you have any questions regarding entries your agency has already submitted.