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, emergency regulations have been adopted. 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-07-10-2019.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) adopted a definition of Brandish that is analogous to use and discharge for firearms, and use and deploy for impact weapons and electronic control weapons. The MPTC defined brandish/use/discharge and brandish/use/deploy as the operation of a weapon in a manner capable of causing physical injury.

Q: For Brandishes/Uses/Discharges a firearm, is pointing a firearm at a subject a reportable Use of Force incident?

A: No. As defined by the MPTC, the mere pointing a firearm at a subject is not a reportable Use of Force incident.

Q: For Brandishes/Uses/Deploys an impact weapon or electronic control weapon, is pointing the weapon at a subject a reportable Use of Force incident?

A: No. As defined by the MPTC, the mere pointing an impact weapon or electronic control weapon at a subject is not a reportable Use of Force incident.

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

A. 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(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: To comply with the statute’s effective date of July 11, 2019, DCJS is utilizing an online reporting tool. In order to access the online reporting tool, please send an email request to useofforce@dcjs.ny.gov. DCJS is developing a permanent data collection mechanism, which will be located on the eJusticeNY Integrated Justice Portal (IJPortal) and is anticipated to be completed in 2020. DCJS will inform all agencies when Use of Force incidents will be reported through the IJ Portal.

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

A: While DCJS is using the temporary reporting tool the reporting process is on-going, and agencies should report Use of Force incidents through the online tool on a case-by-case basis. DCJS is currently developing a permanent data collection mechanism, which will be located on the IJ Portal. The permanent mechanism will require agencies to log Use of Force reports monthly, similar to the NYS Crime Reporting Program where crime reports are due within 30 days after the close of the month.
Q: Is there a paper Use of Force incident reporting form that can be printed and filled out?

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

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

A: Currently, the print and review options are limited while using the online tool. However, DCJS is developing a permanent data collection mechanism, which will be located on the eJusticeNY Integrated Justice Portal (IJPortal). Once developed, Use of Force data will be easier to review and print.

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