

New Part 6058 - USE OF FORCE DATA COLLECTION, ANALYSIS AND REPORTING

Section 6058.1 Purpose.

Section 6058.2 Definitions.

Section 6058.3 Employer Reporting Requirements.

Section 6058.4 Employer Reporting Form.

Section 6058.5 Division Reporting Requirements.

Section 6058.1. Purpose.

At the forefront of the national discussion involving policing in America is law enforcement use of force, and the lack of statistical data to analyze use of force incidents.

The purpose of this Part is to set forth reporting and recordkeeping procedures, regarding use of force pursuant to section 837-t of the Executive Law, to be followed by the chief of every police department, each county sheriff, and the superintendent of state police which employs police officers or peace officers, and by the Division of Criminal Justice Services.

Section 6058.2. Definitions.

As used in this Part, the following terms shall have the following meanings:

- (a) Division means the Division of Criminal Justice Services.
- (b) Commissioner means the Commissioner of the Division of Criminal Justice Services, or his or her designee.
- (c) FBI means the Federal Bureau of Investigation.
- (d) Employer means the chief of every police department, each county sheriff, and the superintendent of state police which employs police officers or peace officers.
- (e) Police officer means a person designated as such in section 1.20(34) of the Criminal Procedure Law.
- (f) Peace officer means a person designated as such in section 2.10 of the Criminal Procedure Law.
- (g) Use of force means when a police officer or peace officer does the following:
 - (1) displays a chemical agent by pointing a chemical agent at a person or persons; or

- (2) uses/deploys a chemical agent by operating the chemical agent against a person or persons in a manner capable of causing physical injury as defined in article 10 of the Penal Law; or
 - (3) brandishes a firearm by pointing a firearm at a person or persons; or
 - (4) uses/discharges a firearm by discharging a firearm at or in the direction of a person or persons; or
 - (5) brandishes an electronic control weapon by pointing an electronic control weapon at a person or persons; or
 - (6) uses/deploys an electronic control weapon by operating an electronic control weapon against a person or persons in a manner capable of causing physical injury as defined in article 10 of the Penal Law; or
 - (7) brandishes an impact weapon by pointing an impact weapon at a person or persons; or
 - (8) uses/deploys an impact weapon by operating an impact weapon against a person or persons in a manner capable of causing physical injury as defined in article 10 of the Penal Law; or
 - (9) uses a chokehold or other similar restraint, which is 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; or
 - (10) engages in conduct which results in the death or serious bodily injury of another person.
- (h) Serious bodily injury means a 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.

Section 6058.3. Employer Reporting Requirements.

- (a) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any instance or occurrence where a police or peace officer employed by it employs use of force.
- (b) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, with respect to each use of force event reported, submit or cause to be submitted the following:
 - (1) the type of use of force;
 - (2) the date of the event;
 - (3) village, town, or city, and county location of the event;
 - (4) the law enforcement agencies involved;
 - (5) a description of the circumstances of the event;
 - (6) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons engaging in the use of force; and

(7) the race, sex, ethnicity, and age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.

(c) Each employer shall, in the form and manner set forth in section 6058.4 of this Part, submit or cause to be submitted any additional information the commissioner may require the employer to report, including, but not limited to, use of force events and incident information, subject information, and officer information related to each event as required by the FBI in coordination with the FBI's Uniform Crime Reporting ("UCR") Program.

Section 6058.4. Employer Reporting Form.

Each employer shall submit all information required to be reported in accordance with section 6058.3 of this Part to the division in the form and manner as prescribed by the division.

Section 6058.5. Division Reporting Requirements

(a) On an annual basis, the commissioner shall conspicuously publish on the division's website a comprehensive report including the use of force information received under section 6058.3 of this Part during the preceding year.

(b) Such reports shall not identify the names of the individuals involved, but for each use of force event reported, shall list the following in accordance with section 837-t of the executive law:

(1) the type of use of force;

(2) the date of the event;

(3) the location of the event disaggregated by county and law enforcement agencies involved;

(4) the town or city where the event occurred;

(5) any additional relevant location information;

(6) a description of the circumstances of the event;

(7) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons engaging in the use of force; and

(8) the race, sex, ethnicity, age (or, if unknown, approximate age) of all persons suffering an injury from the use of force.