



Approved By: Alan P. Mulkin, Chief University Police
Effective Date: February 4, 2021
Rescinds: N/A

NYSLEAP Standards: 20.1, 20.6, 21.1, 21.2
Last Review Date: October 16, 2019

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G.O. 130.10 Use of Force – Physical/Deadly

I. SCOPE

The purpose of this policy is to provide University Police Officers with guidelines on the use of deadly and non-deadly force. Police around the country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. 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 not intended to endorse or prohibit any particular tactic, technique or method of employing force.

II. POLICY STATEMENT

This department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this department that police officers shall use only that force that is reasonably necessary to effectively bring an incident under control based on the extent and type of resistance encountered, while protecting the lives of the officer and others.

The federal and state standards by which use of force is measured is both founded in the basic premise of objective reasonableness. The amount of force that is used by an officer shall be the amount of force that is objectively reasonable and necessary under the circumstances for the officer involved to effect an arrest, prevent 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 judgements – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.” It is the responsibility of each employee to be aware of the requirements of Article 35 of the New York State Penal Law and to guide their actions based upon that law and Departmental Policy and training. Only issued or approved equipment will be carried on duty and used when encountering resistance, except in emergency situations when an employee may use any resources at their disposal. The use of an active countermeasure, pressure point control, joint manipulation to overcome resistance, the baton, or Oleoresin Capsicum (CAP-STUN or PUNCH) will require a Use of Force Report (Attachment A).

Use of restraining devices is mandatory on all prisoners except in the employee’s judgment unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g. prisoner is very elderly, disabled, etc.). 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.

III. 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.
- B. Countermeasures - Any use of force used by a University Police Officer.
- C. 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.
- D. Non-deadly Force - Any use of force other than that which is considered deadly force.
- E. Physical Injury – Impairment of physical condition or substantial pain.
- F. 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.

IV. Use of Force

- A. 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.
- B. Under the 4th 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.

V. Determining the Objective Reasonableness of Force

- A. When used, force should be only that which is objectively reasonable and necessary 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:
 - a. The severity of the crime or circumstances;
 - b. The level and immediacy of threat or resistance posed by the suspect;
 - c. The potential for injury to citizens, officers, and suspects;
 - d. The risk or attempted risk of the suspect to escape;
 - e. The knowledge, training and experience of the officer;
 - f. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects.
 - g. Other environmental conditions or exigent circumstances.

VI. 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's use force that exceeds the degree of force described in subdivision 1 of this section should promptly report these observations to a supervisor.

VII. Prohibited Uses of Force

- A. Force shall not be used by an officer for the following reasons:
 - a. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
 - b. To coerce a confession from a subject in custody;
 - c. To obtain blood, saliva, urine, or other bodily fluid or cells from an individual for the purpose of scientific testing in lieu of a court order where required;
 - d. 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.
 - e. Chokeholds and Obstruction of Breathing or Blood Circulation
 - i. 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.

VIII. Procedures

- A. Parameters for use of non-deadly force:

- a. Where deadly force is not authorized, officers shall use only that level of force that is reasonably necessary to de-escalate the incident and bring it under control.
 - b. Police officers are authorized to use department–approved non-deadly force techniques and issued equipment for resolution of incidents as follows:
 - 1. To protect themselves or another from physical harm.
 - 2. To restrain or subdue a resistant individual.
 - 3. To bring an unlawful situation safely and effectively under control
- B. Non-deadly force weapons and methods:
- a. A police officer is not permitted to use a non-deadly weapon unless qualified in its proficient use as determined by training procedures.
 - b. The following non-deadly weapons are authorized:
 - 1. Pepper Aerosol Restraint Spray (OC)
 - 2. Collapsible Baton (ASP)

IX. Reporting Subject Resistance/Non-Deadly Force:

- A. Any employee encountering resistance pursuant to his duties or any off-duty member encountering resistance regardless of whether or not it is pursuant to his duty as a police officer will:
 - a. Immediately notify his immediate supervisor of the incident.
 - b. If the supervisor is not on duty, the Chief will be notified.
 - c. In the case of off-duty incidents, off campus, the Chief, or the Lieutenant on duty will be notified immediately along with the police agency of jurisdiction.
 - d. In cases of non-arrest or unarrest incident where countermeasures have been used, the employee will obtain permission from the Lieutenant on duty, or the Chief prior to the release of the subject. An Incident Report describing the incident must be completed.
- B. After countermeasures are used, immediately evaluate the need for medical attention or treatment for the person upon whom the techniques were used and arrange for such treatment when:
 - a. that subject has a visible injury requiring medical attention, including injuries prior to countermeasures;
 - b. subject complains of injury or requests medical attention; or
 - c. Oleoresin Capsicum (OC) was used.
 - d. Persons being taken into custody or who will be issued an Appearance Ticket and who refuse medical treatment must be checked out by the Canton Rescue Squad Personnel where the refusal will be documented by them and noted on the Use of Force form.
 - e. Persons who are to be released should be encouraged to go to the hospital, transported if so requested or be checked out by our campus rescue squad and/or the Canton Rescue Squad Personnel, but they cannot be compelled to do so unless they are unable to make a rational determination themselves. The subject’s acceptance or refusal of medical care will be noted on the Use of Force form.

- f. Report, or cause to be reported, all facts relative to the incident on the Use of Force forms whether or not an arrest was made. Counter measures used against crowds or unknown persons will still be documented recording all possible information.
 - g. Attempt to locate and identify any witnesses and depose their observations.
 - h. Prepare and submit the reports required by current directives. If the resistance incident is crime related, an appropriate crime report(s) will be submitted. Any other situation will be documented on an Incident Report. All copies of these report(s) will then be forwarded together, along with other applicable reports, to the coordinating supervisor for approval.
 - i. If more than one employee is involved in a resistance incident, one employee will complete the Use of Force form outlining only their involvement in the incident. All other employees using counter measures will complete an additional Use of Force form outlining their involvement or use of counter measures.
 - j. Additional subjects will be documented on separate resistance reports.
- C. Supervisors Will:
- a. Respond to the scene of the incident immediately. If the employee's immediate supervisor is not available the Chief or a Lieutenant will be notified.
 - b. Ensure that employees receive any necessary assistance, including medical treatment. They will also ensure that any injuries or exposures to employees' are properly documented on an Injury Report and noted on the SJS Report to bring the incident to the judge's attention.
 - c. Ensure that photographs are taken of all subjects involved in counter measures (non-custodial persons have the right to refuse). Note: A photograph showing lack of injury may be as important as one that shows injury.
 - d. Determine if the Chief should respond to the scene and the level of services to be utilized (including photos, measurements, and diagrams). In minor incidents, the unit camera may be used.
 - e. Ensure that a thorough investigation is conducted and all reports are prepared and submitted. In the event that an employee is unable to complete reports due to injuries, the supervisor will prepare or cause them to be.
 - f. Review the Use of Force forms and all related reports for completion and accuracy before forwarding the Use of Force forms and addendums, along with his own report or comments, to the Chief.

X. Use of Deadly Physical Force – On or Off Duty

- A. As authorized by the provisions of Section 35 of the Penal Law, including but not limited to section 35.30, a University Police Officer may use deadly physical force in order to protect the officer or another person from what the officer reasonably believes to be an immediate threat of serious physical injury, or death. A University Police Officer shall not draw or exhibit any firearm unless circumstances create a reasonable cause to believe that it may be necessary to use the firearm in conformance with this policy.

- B. Deadly physical force will not be used when such force will likely cause death or serious physical injury to an innocent bystander or anyone else against whom deadly physical force is not authorized.
- C. Deadly physical force may be used to stop a fleeing suspect where:
 - a. 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,
 - b. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or others.
 - c. Where feasible, some warning should be given prior to the use of Deadly Physical force.
 - d. The only lethal weapons which are authorized by the University Police Department are:
 - 1. Department issued sidearm;
 - 2. Department issued patrol rifle;
 - 3. Any other weapon approved by the Chief of University Police; or,
 - 4. other resources in an emergency situation when none of the above weapons are available and the officer is authorized to use Deadly Physical Force.
 - e. A University Police Officer may discharge a firearm during range practice, or to destroy an animal that represents an immediate threat to human life, or as a humanitarian measure where an animal is seriously injured.
 - f. An authorized University Police Officer shall adhere to the following restrictions when any firearm is exhibited:
 - 1. Warning shots are prohibited;
 - 2. A University Police Officer shall not fire any firearm from a moving vehicle;
 - 3. Moving Vehicles – Officers should move out of the path of an approaching vehicle instead of discharging a firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officers or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle;
 - 4. A UPO shall not dry fire a weapon, except under the direct supervision and authorization of a certified firearms instructor or armorer.

XI. Procedures Following the Use of Deadly Physical Force: Involved Officer.

- A. When Deadly Physical Force is used, the officer will immediately take the following action:
 - a. Determine that the threat of deadly physical force being used against him/her is eliminated.

- b. Determine the physical condition of any injured person and render first aid when appropriate.
- c. Request necessary emergency medical aid.
- d. Notify the dispatcher and a supervisor of the incident and of the location.
- e. The officer will remain on scene (unless injured) until arrival of the supervisor. However, if the circumstances are such that the continued presence of the involved officer might cause a more hazardous situation to develop (a violent crowd), the supervisor at the scene shall have the discretion to instruct the officer to respond to another more appropriate location.
- f. The officer will retain his/her weapon and submit it to the appropriate supervisor.
- g. The officer will prepare detailed reports of the incident including a departmental Use of Force form detailing the use of force.

XII. Procedures Following the Use of Deadly Physical Force: Dispatch

- 1. Dispatch requested medical aid.
- 2. Dispatch requested backup units.
- 3. Dispatch the shift supervisor, as soon as possible.
- 4. Notify the Chief of Police.

XIII. Procedures Following the Use of Deadly Physical Force: Shift Supervisor

- 1. Proceed to the scene as soon as possible.
- 2. Assist the involved officer and handle all duties of the involved officer if he/she is unable to perform them.
- 3. Secure the scene.
- 4. Conduct a preliminary field investigation, locating and identifying all witnesses to the incident.
- 5. Ensure that photographs are taken of all subjects involved in counter measures (non-custodial persons have the right to refuse). **Note:** A photograph showing lack of injury may be as important as one that shows injury.
- 6. Submit a detailed written report of the results of this preliminary investigation to the Chief of Police or his/her designee.

XIV. Procedures Following the Use of Deadly Physical Force: Investigative Unit

- A. The Lieutenant, and/or Chief of University Police will direct the Investigation. A thorough investigation of the incident will be conducted. A detailed report of the investigation will be completed.

XV. Procedures Following the Use of Deadly Physical Force: Chief of University Police.

- 1. In the case of a death or serious physical injury, the University Police officer shall be immediately assigned administrative duties and will not return to field assignments until he or she is determined fit for duty.

2. The Chief of Police or his designee, in conjunction with the Office of College Communications, will provide all press releases on the matter.
3. The Chief of Police or his designee will contact the District Attorney, provide a detailed investigative report to the District Attorney and will assist the District Attorney with his/her investigation if needed.
4. The Chief of Police and/or his designee will direct the Lieutenant to conduct an investigation to determine whether the deadly use of force was within the policy of the department and determine as much detailed information leading up to the incident, the incident itself and the aftermath. The Lieutenant will submit a written report of this investigation to the Chief of Police.
5. The Chief of Police will review all reports prepared regarding the incident to determine if the use of force was justified and if all department policies and procedures were followed.
6. The Chief of Police will submit his report to the Vice President for Administration.
7. The Chief of Police will notify the Commissioner of University Police, SUNY Legal and the President of the college.

XVI. Use of Force Data Collection

- A. Effective July 11, 2019, each law enforcement agency became responsible for reporting information on their own officers who were involved in a use of force incident that meets the criteria outlined by Executive Law 845-t. 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.
- B. 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.

XVII. Annual In-Service Training

All officers of the University Police Department will receive annual training on the use of non-deadly and deadly physical force and demonstrate their understanding on the proper application of force. This will consist of training concerning Article 35 of the New York State Penal Law and department policies regarding the use of non-deadly and deadly physical force. Training topics will include use of force, conflict prevention, conflict resolution, de-escalation techniques and strategies, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.

XVIII. Failure To Adhere To Policy

Failure to adhere to this policy on use of force guidelines may result in referral to Human Resources for Disciplinary Action in accordance with applicable collective bargaining agreements.

XIX. Frequency of Review and Update

Policies will have a normal review period of every five (5) years unless required otherwise.

SIGNATURES, TITLE AND DATE OF APPROVAL

Alan P. Mulkin, University Police Chief

Policy Approver – Printed Name

Policy Approver – Signature

February 4, 2021

Date of Approval



NYS UNIVERSITY POLICE AT CANTON
USE OF FORCE REPORT FORM

1) DATE 2) TIME 3) LOCATION 4) CD #
5) SUBJECT'S NAME 6) DATE OF BIRTH 7) HEIGHT 8) WEIGHT 9) PHONE NUMBER
10) REASON THE USE OF FORCE WAS NECESSARY
11) LIST MOST SERIOUS OFFENSE(S) AT TIME FORCE USED:
12) NUMBER OF SUBJECTS THAT RESISTED: 13) RESTRAINT METHOD USED:
14) SUPERVISOR NOTIFIED / TIME / BY WHOM:
15) AT THE TIME OF ARREST, THE SUBJECT WAS:
16) OFFICER'S PERCEPTION OF INDIVIDUAL'S ACTIONS
17) OFFICER'S RESPONSE OPTION(S)
18) WAS SUBJECT(S) INJURED?
19) WAS OFFICER(S) INJURED?

COMPLETING OFFICER(S): IF ADDITIONAL SPACE IS REQUIRED IN ANY BOX USE THE NARRATIVE SPACE ON NEXT PAGE;
ATTACH ALL RELATED REPORTS, SUPPLEMENTS AND STATEMENTS AND
FORWARD TO SHIFT SUPERVISOR PRIOR TO END OF TOUR OF DUTY

NYS UNIVERSITY POLICE AT CANTON USE OF FORCE OFFICER NARRATIVE C#		
20) OFFICER(S) TAKING PHOTOS	21) TOTAL # OF PHOTOS	22) AUDIO-VISUAL EVIDENCE: <input type="checkbox"/> YES <input type="checkbox"/> NO <small>If NO, explain:</small>
23) SHIFT OFFICER(S):		24) OFFICERS PRESENT AT SCENE DURING FORCE APPLICATION:
25) SHIFT LIEUTENANT(S):		26) SUPERVISOR(S) WHO RESPONDED TO SCENE:
27) WITNESS(ES) OR PERSON(S) WITH KNOWLEDGE:	ADDRESS:	PHONE #:
1)		
2)		
3)		
4)		
28) Officers Narrative: Please provide a detailed report describing the facts and circumstances leading to the use of force.		
29) REPORTING OFFICER (Print Name and Badge#)	REPORTING OFFICER'S SIGNATURE	DATE
SUPERVISORY / COMMAND REVIEW		
30) REPORTING LIEUTENANT (Name and Badge#)	31) DATE AND TIME OF LIEUTENANT RESPONSE	32) LOCATION
33) OFFICER WHO USED FORCE (Name and Badge#)	34) WAS OFFICER(S) INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO	35) WAS SUBJECT(S) INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO
36) LIEUTENANT'S NARRATIVE: (Document steps taken to review and evaluate Officer's use of force.)		
37) A/V EVIDENCE AVAILABLE & REVIEWED BY LIEUTENANT: <input type="checkbox"/> YES <input type="checkbox"/> NO Date:	38) A/V EVIDENCE AVAILABLE & REVIEWED BY CHIEF OF POLICE: <input type="checkbox"/> YES <input type="checkbox"/> NO Date:	<input type="checkbox"/> <input type="checkbox"/>
39) CHIEF OF POLICE REVIEW NARRATIVE: (Confirm proper and complete investigation was conducted)		
LIEUTENANT NAME	CHIEF OF POLICE NAME	
(Sign / Date)	(Sign / Date)	

SUPERVISORY/ COMMAND REVIEW & CRITIQUE USE OF FORCE WITH INVOLVED OFFICER(S).

NOTE FINDINGS ABOVE AND FORWARD COMPLETED PACKET TO SUPERVISOR, AS APPLICABLE.

Use of force requires an ON-SCENE review, including a narrative report from the responding supervisor. This is REQUIRED for incidents involving- OC Spray, ECD Probe deployment or Drive Stun; any incident resulting in injury or complaint of injury; or any other time deemed appropriate by a supervisor.