A. Purpose

The purpose of this policy is to provide 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. Separate policy guidance and training will be provided for each of the available force instrumentalities made available to officers.

B. Policy

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 judgments – 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 his 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 his 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.

### C. Definitions

1. **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.
2. **Countermeasures** - Any use of force used by a University Police Officer.
3. **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. **Non-deadly Force** - Any use of force other than that which is considered deadly force.
5. **Physical Injury** – Impairment of physical condition or substantial pain.
6. **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.
D. Use of Force

1. In general terms, force is authorized to be used when 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.

2. 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.

E. Determining the Objective Reasonableness of Force

1. When used, force should be only that which is reasonable and necessary given the circumstances perceived by the officer at the time of the event.

2. Factors that should 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.

F. Prohibited Uses of Force

a. Force shall not be used by an officer for the following reasons:
   i. To extract an item from the body or cavity of a subject without a warrant, except where exigent circumstances are present;
   ii. To coerce a confession from a subject in custody;
   iii. To obtain physical evidence from an individual for the purpose of scientific testing in lieu of a court order where required;
   iv. 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.

G. Procedures

1. Parameters for use of non-deadly force:
   a. Where deadly force is not authorized, officers shall use only that level of force on the force continuum 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:
      i. To protect themselves or another from physical harm.
ii. To restrain or subdue a resistant individual.
iii. To bring an unlawful situation safely and effectively under control.
c. Non-deadly force weapons and methods:
   i. A police officer is not permitted to use a non-deadly weapon unless qualified in its proficient use as determined by training procedures.
   ii. The following non-deadly weapons are authorized:
       1. Pepper Aerosol Restraint Spray (OC)
       2. Collapsible Baton (ASP)

H. Reporting Subject Resistance/Non-Deadly Force:

1. 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.
      i. If the supervisor is not on duty, the Chief will be notified.
      ii. 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.
      iii. 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: (1) that subject has a visible injury requiring medical attention, including injuries prior to countermeasures; (2) subject complains of injury or requests medical attention; or (3) Oleoresin Capsicum (OC) was used.
      i. Persons being taken into custody or who will be issued an appearance ticket and who refuse medical treatment must be checked out by the Campus Rescue Squad, or Potsdam Rescue Personnel or transported to a hospital where the refusal will be witnessed by hospital personnel and noted on the Use of Force form.
      ii. 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 Potsdam Rescue 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.
   c. 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. Countermeasures used against
crowds or unknown persons will still be documented recording all possible information.
d. Attempt to locate and identify any witnesses and depose their observations.
e. Prepare and submit the reports required by current directives. If the resistance incident is crime related, 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 his involvement in the incident. All other employees using countermeasures will complete an Additional Use of Force form outlining their involvement or use of countermeasures.
   ii. Additional subjects will be documented on separate resistance reports.

2. 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 insure 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 countermeasures (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 addendum’s, along with his own report or comments, to the Chief.

I. Use of Deadly Physical Force – On or Off Duty
   1. 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 is reasonably believed to be an immediate threat of death or other serious physical injury, or to prevent the escape of a fleeing felon whom the officer has reasonable cause to believe will post a significant threat to human life should the escape occur. Firearms shall not be discharged when it appears that a third party may be injured as a
result. 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.

2. Deadly physical force will only be used as a last resort when there is no other alternative.

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

4. 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.

5. The only lethal weapons which are authorized by the University Police Department are:
   a. Department issued sidearm;
   b. Department issued patrol rifle;
   c. Any other weapon approved by the Chief of University Police;
   d. Or, other resources in an emergency situation when none of the above weapons are available and the officer is authorized to use deadly physical force.

6. 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.

7. An authorized university police officer shall adhere to the following restrictions when any firearm is exhibited:
   a. Warning shots are prohibited
   b. A university police officer shall not fire any firearm from a moving vehicle
   c. 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.
   d. A UPO shall not dry fire a weapon, except under the direct supervision and authorization of a certified firearms instructor or armorer.

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

1. 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.

2. Procedures Following the Use of Deadly Physical Force: Dispatch
   a. Dispatch requested medical aid.
   b. Dispatch requested backup units.
   c. Dispatch the shift supervisor, as soon as possible.
   d. Notify the Chief of Police.

3. Procedures Following the Use of Deadly Physical Force: Shift Supervisor (Lieutenant)
   a. Proceed to the scene as soon as possible.
   b. Assist the involved officer and handle all duties of the involved officer if he/she is unable to perform them.
   c. Secure the scene.
   d. Conduct a preliminary field investigation, locating and identifying all witnesses to the incident.
   e. Submit a detailed written report of the results of this preliminary investigation to the Chief of Police or his designee.

4. Procedures Following the Use of Deadly Physical Force: Investigative Unit
   a. The Lieutenant, 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.

5. Procedures Following the Use of Deadly Physical Force: Chief of University Police.
   a. 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.
   b. The Chief of Police or his designee, in conjunction with the Office of Public Affairs, will conduct all press releases on the matter.
   c. 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.
   d. 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.
   e. 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.
   f. The Chief of Police will submit his report to the Dean of Students.
   g. The Chief of Police will notify the Commissioner of University Police, SUNY Legal and the President of the college.

K. Annual In-Service Training – All officer of the University Police Department will receive annual training on the use of deadly physical force. This will consist of training concerning
Article 35 of the New York State Penal Law and department policies regarding the use of deadly physical force.

L. Use of Force Model
Attachment A
University Police Department at Potsdam
USE OF FORCE REPORT FORM

<table>
<thead>
<tr>
<th>1) DATE</th>
<th>2) TIME</th>
<th>3) LOCATION</th>
<th>4) CASE #</th>
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<tr>
<th>5) SUBJECT’S NAME</th>
<th>6) DATE OF BIRTH</th>
<th>7) HEIGHT</th>
<th>8) WEIGHT</th>
<th>9) PHONE NUMBER</th>
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10) REASON THE USE OF FORCE WAS NECESSARY (Check all that apply):
- TO EFFECT AN ARREST
- TO DEFEND SELF
- PREVENT ESCAPE
- TO DEFEND ANOTHER OFFICER / PERSON
- PROTECTIVE CUSTODY / SUBJECT SAFETY
- OTHER:

11) LIST MOST SERIOUS OFFENSE(S) AT TIME FORCE USED:

12) WAS SUBJECT INJURED?
- YES
- NO

13) WAS REPORTING OFFICER INJURED?
- YES
- NO

14) MEDICAL TREATMENT PROVIDED TO/BY:

15) PHOTOS TAKEN BY:

16) # SUBJECTS THAT RESISTED:

17) # OFFICERS PRESENT:

18) SUPERVISOR NOTIFIED / TIME / BY WHOM:

19) AT THE TIME OF ARREST, THE SUBJECT WAS:
- SUSPECTED TO BE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
- MENTALLY IMPAIRED / EMOTIONALLY DISTURBED
- UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
- OTHER:

20) OFFICER’S PERCEPTION OF INDIVIDUAL’S ACTIONS (USE NARRATIVE TO DESCRIBE PERCEIVED THREAT(S) POSTED BY INDIVIDUAL):

21) OFFICER’S RESPONSE OPTION(S) (PROVIDE FURTHER DETAILS IN ATTACHED NARRATIVE REPORT(S)):

PRESENCE:
- FULL UNIFORM
- PARTIAL UNIFORM
- PLAINCLOTHES

NOTE: Officers not in full uniform, describe means of visual police identification (e.g., raid vest or jacket, displayed badge/ID, etc.)

VERBAL COMMANDS (Describe details in Narrative Report):

COMPLIANCE TECHNIQUES (Describe details in Narrative Report):

CHEMICAL SPRAY / CHEMICAL AGENT (Describe details in Narrative Report):

Number of Bursts: ____________________ Duration of Bursts: ____________________ Distance from Subject: ____________________

Impact Location: ____________________ Time between application / decontamination: ____________________

IMPACT WEAPON / TEMP. INCAPACITATION (Describe details in Narrative Report):

ELECTRONIC CONTROL DEVICE (Describe details in Narrative Report):

Laser Only: ____________________ Spark Check: ____________________ Drive Stun: ____________________ Probe Deployment: ____________________ Number of Cycles: ____________________

Impact Location: ____________________ Distance from Subject: ____________________

Taser Unit #: ____________________ Serial #: ____________________ Cartridge Serial #: ____________________

POINT A FIREARM (Describe details in Narrative Report):

DEADLY FORCE – Firearm or other (Describe details in Narrative Report):

OTHER:
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<tr>
<td>22) RERAINT METHOD USED:</td>
<td>HAND or FLEX CUFFS</td>
<td>LEG RERAINTS</td>
<td>BODY GUARD</td>
<td>SPIT SHIELD</td>
<td>NONE</td>
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<td>23) OFFICERS PRESENT AT SCENE DURING FORCE APPLICATION:</td>
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<td>24) SHIFT SUPERVISOR(S):</td>
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<td>25) OTHER WITNESS(ES) / PERSON(S) PRESENT AT SCENE:</td>
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<td>26) SHIFT OFFICER(S):</td>
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<td>27) AUDIO-VISUAL EVIDENCE:</td>
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<td>If NO, explain:</td>
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<td>28) SUPERVISOR(S) WHO RESPONDED TO SCENE:</td>
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**OFFICER NARRATIVE**

29) WAS SUBJECT(S) INJURED? □ YES □ NO

**WAS OFFICERS(S) INJURED? □ YES □ NO **

32) DESCRIBE THE EXTENT OF SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:

Subject #1 Name:

33) DESCRIBE THE EXTENT OF OFFICER'S INJURIES AND PLACE ON THE DIAGRAM:

Officer #1 Name:

34) WITNESS(ES) OR PERSON(S) WITH KNOWLEDGE:

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<th>ADDRESS</th>
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35) Officers Narrative: Did officer prepare a detailed incident report describing the facts and circumstances leading to the use of force? □ YES □ NO

If no, explain:

**SUPERVISORY / COMMAND REVIEW**

36) REPORTING SUPERVISOR (Name and Badge#)

37) DATE AND TIME OF SUPERVISOR RESPONSE

38) LOCATION

39) OFFICER WHO USED FORCE (Name and Badge#)

40) WAS SUBJECT(S) INJURED?

41) WAS OFFICER(S) INJURED?

42) Supervisor’s Narrative: (Document steps taken to review and evaluate Officer’s use of force.)

43) A/V EVIDENCE AVAILABLE / REVIEWED BY SUPERVISOR:

<table>
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<th>YES</th>
<th>NO</th>
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44) A/V EVIDENCE AVAILABLE / REVIEWED BY OFFICER:

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45) A/V EVIDENCE AVAILABLE / REVIEWED BY LIEUTENANT:

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46) Lieutenant Review Narrative: (Confirm proper and complete investigation was conducted)

**OFFICER REVIEW (Print / Sign / Date):**

SUPERVISORY REVIEW (Print / Sign / Date):

LIEUTENANTS REVIEW (Print / Sign / Date):

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

Use of force requires an ON-SCENE review, including a narrative report from the responding supervisor. This is REQUIRED for incidents involving Chemical 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.

General Order 130.10
Written Directives