



**University Police Department
State University of New York
College at Potsdam
Potsdam, New York 13676**

GENERAL ORDERS

SUBJECT		
Use of Force		
<input type="checkbox"/> new: <input type="checkbox"/> rescinds: <input checked="" type="checkbox"/> amends: All previous	Cross-reference: The State University of New York Police Manual, Penal Law, Article 35, Graham v. Connor, DCJS Use of Force Model Policy September 2020 Accreditation standards: 20.1, 20.6, 21.1, 43.8 NYSLEAP Standard(s) 20.1, 20.6, 21.1, 43.8	
Effective date: July 5 th , 2012	Amend/Reevaluation Date: January 27, 2021	
Approval:	Timothy M. Ashley II, Chief of Police	Signature: Timothy M. Ashley II

A. Purpose

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. 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 University 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.¹ 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.”²

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.³

¹ Force which is objectively reasonable is insulated from criminal liability through Article 35 of the NYS Penal Law and civil liability by the 4th Amendment standard of objective reasonableness.

² *Graham v. Connor*, 490 U.S. 386 at 396 (1989).

³ *Graham*, 490 U.S. 396 (1989)

2. 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
3. Physical Injury – Impairment of physical condition or substantial pain.⁵
4. 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.⁶

D. Use of Force

1. 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.⁷
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.⁸

E. Determining the Objective Reasonableness of Force

1. 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.
2. 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;⁹
 - b. The level and immediacy of threat or resistance posed by the suspect;¹⁰
 - c. The potential for injury to citizens, officers, and suspects;¹¹
 - d. The risk or attempt of the suspect to escape;¹²
 - e. The knowledge, training and experience of the officer;¹³
 - f. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects;¹⁴
 - g. Other environmental conditions or exigent circumstances.¹⁵

⁴ NY Penal Law 10 (11) (McKinney 2013)

⁵ NY Penal Law 10 (9) (McKinney 2013)

⁶ NY Penal Law 10 (10) (McKinney 2013)

⁷ NY Penal Law and 35.30 (1) (McKinney 2013)

⁸ Graham, 490 U.S. at 396 (1989)

⁹ Ibid.

¹⁰ Ibid.

¹¹ Scott v. Harris, 550 U.S. 372 (2007)

¹² Graham, 490 U.S. at 396 (1989)

¹³ Analysis of cases under the 4th Amendment require the focus to be on the perspective of a reasonable officer on the scene which includes the training and experience of the officer. Graham v. Connor, 490 U.S. 386 (1989), Terry v. Ohio 392 U. S. 1 (1968)

¹⁴ Sharrar v. Felsing, 128 F. 3d 810 (3rd Cir. 1997) (numbers of officers or subjects)

¹⁵ Courts have repeatedly declined to provide an exhaustive listing of factors. Chew v. Gates, 27 F. 3d 1432, 1475 n.5 9th Cir. (1994)

F. Duty to Intervene

1. 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.
2. An officer who observes another officer use force that exceeds the degree of force described in subdivision 1 of this section should promptly report these observations to a supervisor.

G. Use of Deadly Physical Force

1. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.¹⁶
2. 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.¹⁷
3. Chokehold and Obstruction of Breathing or Blood Circulation
 - a. 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.¹⁸

H. Prohibited Uses of Force

1. 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.

¹⁶ NY Penal Law and 35.30(1)(c)(McKinney 2013)

¹⁷ NY Penal Law and 35.30(1), as restricted by *Tennessee v. Garner*, 471 U.S. 1 (1985) (restricting the use of deadly physical force as it relates to fleeing felons) In *Garner*, the Supreme Court uses “significant threat of serious physical harm, either to the officer or others” in describing the limited circumstances under which deadly force can be used to prevent the escape of a felon.

¹⁸ NY Penal Law 121.13-a established the crime of Aggravated Strangulation.

I. Procedures

1. 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:
 - 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)

J. Reporting and Reviewing the Use of Force

1. A police or peace officer or other law enforcement entity who has custody of a person must provide attention to the medical and mental health needs of a person in their custody and obtain assistance and treatment of such needs, which are reasonable and provided in good faith.¹⁹
 - a. This includes appropriate and timely medical attention being provided to a party injured as a result of a use of force incident.
 - b. The immediate mental health needs of a person shall be based upon the reasonable cause to believe that a person, who appears to be mentally ill, is conducting themselves in a manner which is likely to result in a serious harm to themselves or others.²⁰
2. Members involved in use of force incidents as described below shall notify a supervisor as soon as practicable and shall complete a departmental use of force report.
 - a. Any use of force needed above compliant handcuffing.
 - b. Use of force that result in a physical injury.
 - c. Use of force incidents that a reasonable person would believe is likely to cause an injury.
 - d. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from complaint handcuffing.
 - e. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed.

¹⁹ NY Civil Rights Law 28

²⁰ NY Mental Hygiene Law 9.41

- f. Incidents where a firearm was drawn from holster or discharged at a subject.²¹
 - g. Use of 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 air intake.
 - h. Officer displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas.
 - i. Officer brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy.
 - j. Officer brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb, or long-range acoustic device.
3. A standardized use of force form will be used to document any reportable use of force incident.²²
 4. Officer should document any requests for necessary medical or mental health treatment as well as efforts of police to arrange for such treatment.

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

1. 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.
2. 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.
3. 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.

²¹ NY EXC 837-v requires that any discharge of a weapon, while either on duty or off duty, in the direction of a person be verbally reported to the involved officer's supervisor within six hours and a written report prepared within forty-eight hours of occurrence.

²² Chiefs of police departments, County Sheriffs, and the Superintendent of State Police should consider utilizing these forms to ensure compliance with the administrative reporting requirement of EXC 837-t.

L. Procedures Following Use of Deadly Physical Force

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. 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.
 - f. 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 College Communications, will provide 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.

M. Procedures for Investigating Use of Force Incidents

- 1. Where applicable, a supervisor should respond to the scene to begin the preliminary force investigation.
- 2. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
- 3. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.
- 4. The Lieutenant will review all information related to the use of force and document same on use of force report. This will then be forwarded to the Chief of Police for review.
- 5. 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.²³

N. 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 and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.²⁴

²³ NY EXC 840(4)(d)(2)(vi)

²⁴ NY EXC 840(4)(d)(2)(vii)

This policy is not intended to be a substitute for proper training in the use of force. Comprehensive training is the key to the real-world application of the concepts discussed within this policy.

SUNY Potsdam

UNIVERSITY POLICE DEPARTMENT USE OF FORCE REPORT FORM

1) DATE 2) TIME 3) LOCATION 4) Case #

5) SUBJECT'S NAME 6) DATE OF BIRTH 7) HEIGHT

' " 8) WEIGHT

LBS 9) PHONE NUMBER

10) REASON THE USE OF FORCE WAS NECESSARY (Check all that apply):

TO AFFECT AN ARREST TO DEFEND SELF TO PREVENT ESCAPE

TO DEFEND ANOTHER OFFICER / PERSON PROTECTIVE CUSTODY / SUBJECT

SAFETY TO CONTROL AN INCIDENT

TO DISPATCH AN ANIMAL OTHER:

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

12) NUMBER OF SUBJECTS THAT RESISTED: 13) RESTRAINT METHOD USED: HAND or
FLEX CUFFS LEG RESTRAINTS

BODY GUARD SPIT SHIELD NONE

OTHER:

14) SUPERVISOR NOTIFIED / TIME / BY WHOM:

/ /

15) 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:

16) OFFICER'S PERCEPTION OF INDIVIDUAL'S ACTIONS (Use narrative on next page to
describe perceived threat(s) posted by individual):

PASSIVE RESISTANCE –

(Dead weight or non-compliance to Officer's lawful verbal direction, but offering no actively
resistive movement)

ACTIVE OR ESCAPE RESISTANCE –

(Actions such as pushing, pulling, evasive arm movement, flailing, flight, muscle tension, etc. to
avoid control. Does not include attempts to harm the Officer)

ASSAULTIVE / HIGH-RISK –

(Agitated, combative state, physically assaultive actions and /or behavior that poses threat of injury to
another (e.g., punching, kicking, clenching of fists, etc.)

General Order 130.10

Written Directives

LIFE THREATENING / SERIOUS BODILY INJURY -

(Actions that may result in death or serious bodily injury)

17) OFFICER'S RESPONSE OPTION(S) (Provide further details in narrative on next page):

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 on next page):

COMPLIANCE TECHNIQUES (Describe details in narrative on next page):

(Force used to gain control - restraint, come-alongs, takedowns - use of hands, arms, feet, legs)

OC SPRAY (Describe details in narrative on next page): Display only (not used)

Number of Bursts: Duration of Bursts: Distance from Subject: Impact Location:

Time between application / decontamination:

IMPACT WEAPON / TEMP. INCAPACITATION (Describe details in narrative on next page):

Display only (not used)

ELECTRONIC CONTROL DEVICE (Describe details in narrative on next page): Display only (not used)

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

Taser Unit #: Serial #: Cartridge Serial #: Distance from Subject:

POINT A FIREARM (Describe details in narrative on next page):

DEADLY FORCE – Firearm or other (Describe details in narrative on next page): OTHER:

18) WAS SUBJECT(S) INJURED? * YES NO * (Complete Diagram and Description Below) SUBJECT NAME:

18a) DESCRIBE THE EXTENT OF SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:

18b) WAS MEDICAL ASSISTANCE PROVIDED TO SUBJECT? YES NO BY WHOM?

19) WAS OFFICER(S) INJURED? * YES NO * (Complete Diagram and Description Below) OFFICER NAME:

19a) DESCRIBE THE EXTENT OF OFFICER'S INJURIES AND PLACE ON THE DIAGRAM:

19b) WAS MEDICAL ASSISTANCE PROVIDED TO OFFICER? YES NO BY WHOM?

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

SUNY Potsdam UNIVERSITY POLICE DEPARTMENT

USE OF FORCE OFFICER NARRATIVE CASE#

20) OFFICER(S) TAKING PHOTOS 21) TOTAL # OF PHOTOS 22) AUDIO-VISUAL EVIDENCE: YES NO

If NO, explain:

23) SHIFT OFFICER(S): 24) OFFICERS PRESENT AT SCENE DURING FORCE APPLICATION:

25) SHIFT LIEUTENANT(S): 26) LIEUTENANT(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 SUBJECT(S) INJURED?

YES NO 35) WAS OFFICER(S) INJURED?

YES 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:

YES NO Date: 38) 39) A/V EVIDENCE AVAILABLE & REVIEWED

BY CHIEF OF POLICE:

YES NO Date:

40) 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.

General Order 130.10

Written Directives

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.