
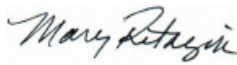


New York State University Police Department- New Paltz

	SUBJECT <b>Use of Force</b>	GENERAL ORDER NUMBER
	DCJS STANDARDS <b>20.1</b>	EFFECTIVE DATE 12/15/2016
	APPROVAL Mary Ritayik, Chief of Police	REVISION DATE 12/28/2020 

**1. PURPOSE:**

In accordance with New York State Laws police officers of the New York State University Police Department, New Paltz are authorized to use force under specific circumstances in order to preserve life and protect property. Federal constitutional and state statutory standards dictate when and how much force is used. This policy sets forth guidelines for the objectively reasonable use of force by Police Officers and is by no means encompassing of all possible situations and scenarios in which force might be used. Police work is inherently dangerous and therefore a variety of factors and circumstances may result in various outcomes.

**2. POLICY:**


The New York State University of New York at New Paltz recognizes the sanctity of all human life. In accordance with Article Thirty-Five of the Penal Law of New York State and the Fourth Amendment of the United States Constitution, it shall be the policy of this Department that all Officers shall use only that force which is reasonable and necessary to effectively bring an incident under control while protecting the lives of others as well as the lives of the officers.

**3. 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 same time that the force was used.
- b. **Deadly Physical Force:** Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.
- c. **Physical Injury:** Impairment of physical condition or substantial pain.
- d. **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.

**4. DETERMINING OBJECTIVE REASONABLENESS OF FORCE:**

- a. When used, force should be only that which is objectively reasonable 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:
  - i. The severity of the crime or circumstance;
  - ii. The level and immediacy of threat or resistance posed by the suspect;
  - iii. The potential for injury to citizens, officers, and suspects;
  - iv. The risk or attempt of the suspect to escape;
  - v. The knowledge, training, and experience of the officer;
  - vi. Officer/subject considerations such as age, size, relative strength, skill level,

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- injury or exhaustion, and the number of officers or subjects;
- vii. Other environmental conditions or exigent circumstances.

## 5. 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 use force that exceeds the degree of force as described in subdivision (a) of this section should promptly report these observations to a supervisor.

## 6. USE OF FORCE CONTINUUM:

- a. Any time a police officer considers the use of force it shall be incumbent on that officer to assess the situation and use ONLY that level of force which is reasonable and necessary. The officer(s) observations and assessments are crucial. Because the officer must determine whether the actions of the individual(s) are such that compliance to the police officer are being met or to be met, or if the individual(s) are to remain non-compliant or increase their actions which have been deemed to be improper or illegal. The stages of the continuum include:
  - i. **Verbal Direction:** This is the least intrusive stage. This stage may include a simple verbal request to a direct compliance command.
  - ii. **Physical Direction:** This stage often requires physical contact with the person. The amount of physical direction and extent varies with the situation and circumstance. This stage shall be determined to mean that the officer(s) contact can be as slight as a mere touch, to using grab holds, restraint and come-along techniques as adopted through department training.
  - iii. **Oleoresin Capsicum Deployment:** This is a less than lethal force option that causes irritation to the eyes, mouth and nasal cavity of the combative subject and is deployed to bring the subject into compliance.
  - iv. **Electronic Control Device Deployment:** This Department utilizes the Axon Taser X2 which provides a force option which uses replaceable cartridges containing compressed nitrogen to propel two small probes that are attached to the handheld unit by insulated conductive wires. The wires transmit short controlled pulses of electricity in five-second cycles that stimulate the skeletal muscles of the human body. These short electrical pulses affect the sensory and motor functions of the peripheral nervous system to cause temporary incapacitation by preventing coordinated muscular action, without affecting vital organs. Once the five-second cycle is complete, an immediate recovery occurs. Tasers collect and store data regarding each use for post-incident investigations.
  - v. **Strong Physical Directive Measures:** These are impact-oriented techniques that include knee strikes, elbow strikes, punches, and kicks.

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Control strikes are used to subdue a subject and include strikes to pressure points such as the common peroneal (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).

- vi. **Impact Weapons Deployment:** Impact weapons include batons and expandable batons. Impact weapons may be deployed to deliver deliberate strikes and/or as a control mechanism to bring combative subjects under control. It shall be noted that under certain circumstances the use of an impact weapon may constitute deadly force.
- vii. **Firearms Deployment:** This is the deadliest form of physical force and may only be used in circumstances in which deadly force is justified.

**b. Principles of Force Progression:**

- i. Stages in the progression of force and levels within each stage may be skipped due to the circumstances.
- ii. If possible, the officer should give the subject an opportunity to comply at each level. Once compliance is achieved, escalation in force ceases. To do otherwise constitutes excessive force. Under no circumstances will excessive force be tolerated.
- iii. It is not the officer who is the aggressor. A subject escalates the use of force by not complying. In failing to comply, the subject compels the officer to the next level.
- iv. Progression is not always upward. Situations in which force is used are often in flux therefore, the officer must continuously assess the circumstances and, as appropriate, escalate or de-escalate the level for force.
- v. Remember that all force situations are judged in the light of “reasonableness and necessity.”


**7. PROCEDURES:**

**a. Less than Lethal Force Options:**

- i. Where deadly force is **NOT AUTHORIZED**, officers shall assess the incident in order to determine which option will best de-escalate the incident and bring it under control in as safe manner.
- ii. Police Officers are approved to use less lethal force options using department issued equipment:
  - 1. To protect themselves or another from physical harm
  - 2. To effect a lawful arrest or detention
  - 3. To prevent the escape of a person from custody
  - 4. To bring an unlawful situation safely and effectively under control

**b. Deadly Force Options:**

- i. Police Officers are authorized to use deadly force:
  - 1. To protect themselves or others from what is reasonably


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believed to be an imminent threat of death or serious physical injury; or

2. 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.
- ii. Before using a firearm, Police Officers shall identify themselves and state their intent to shoot, where feasible.
- iii. Police Officers may also discharge their weapons under the following circumstances:
  1. During range training, practice and competitive shooting events
  2. To destroy an animal that represents a threat to public safety or as a humanitarian measure where an animal has been injured, maimed, disabled or sick.
  3. Except for maintenance, inspections or training, Officers shall not draw their firearms unless circumstances create reasonable cause to believe it necessary to use the firearm in conformance with this policy.
  4. Warning shots are not permitted.
  5. Police Officers shall not fire at a moving vehicle unless that vehicle is being used as a deadly weapon.

## 8. PROHIBITED USES OF FORCE

- a. Force shall not be used by an officer for the following reasons:
  - i. To extract an item from the anus or vagina 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 blood, saliva, urine, or other bodily fluids or cells, 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.
- b. The use of chokeholds or a strike to the throat, back of the neck or spine of a suspect, neck restraint, or other physical manipulation or any application of sustained pressure to the neck, throat/windpipe or the airway of a suspect that may hinder breathing or reduce intake of air is strictly prohibited and against NYS Penal Law as listed below:
  - i. In accordance with NYS Penal Law section Aggravated Strangulation 121.13-a: A person is guilty of aggravated strangulation when, being a police officer as defined in subdivision thirty-four of section 1.20 of the

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criminal procedure law or a peace officer as defined in section 2.10 of the criminal procedure law, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven of the executive law, and thereby causes serious physical injury or death to another person. Aggravated strangulation is a class C felony.

- ii. This policy also emphasizes the need to position subjects in custody so as to promote free breathing, in order to avoid any chance of an ‘Excited Delirium’ death.
  1. Excited delirium is defined as a state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength and endurance without apparent fatigue.


## 9. TRAINING AND QUALIFICATIONS:

### a. Firearms

- i. While on duty, Police Officers shall only carry firearms and ammunition authorized by the Department. In addition, Officers must meet the annual Department qualification standards with their firearms.
- ii. The Police Department shall schedule regular training qualification sessions for firearms which will be graded on a pass/fail basis.
- iii. Officers who fail to receive a pass rating with their duty weapon, in accordance with established qualification standards shall be reported to the Chief of Police. The Chief of Police shall review such report and may render any of the following decisions:
  1. Refer Officer to remedial firearms training.
  2. Temporary reassignment of that Officer to non-enforcement duties.
  3. Disciplinary action based on incompetent performance of duties related to employment.
  4. An Officer who has taken an extended leave or suffered an illness or injury that could affect their ability to use a firearm will be required to qualify before returning to duty.
  5. In reference to above, the Chief of Police shall have the authority to recall all Department issued firearms until the Officer is qualified by a certified firearms instructor.

### b. Use of Force

- i. All officers will receive training and demonstrate their understanding on the proper application of force once a year.
- ii. Training will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies,

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including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibited conduct.

## 10. MEDICAL ATTENTION:

- a. After physical force is used, an officer shall as soon as practical evaluate the need for medical attention or treatment for that person upon whom the physical force was used and arrange for such treatment when that person has a visible injury, complains of injury or discomfort, or requests medical attention.
  - i. Serious or potentially life-threatening incidents require immediate aid by medical professionals.
  - ii. A supervisor shall be immediately advised of all injuries observed or reported.
  - iii. If medical aid is not provided, heightened observation to detect obvious changes in physical condition should take place.
  - iv. If OC spray was utilized, the eyes and other affected areas should be flushed with water, and an evaluation by medical professionals should be considered.
- b. After any use of force, medical assistance shall be obtained for any person who exhibits signs of physical distress, mental health distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he or she can be medically assessed. (NYS Civil Rights Law Article 3 section 28)

## 11. REPORTING USE OF FORCE INCIDENTS

- a. **Officer Responsibility:**
  - i. Officers involved in use of force incidents as described below shall notify their supervisor as soon as practicable and complete a departmental Response to Resistance report (Item #1) when:
    1. Use of force that involves physical injury.
    2. Use of force incidents that a reasonable person would believe is likely to cause an injury.
    3. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.
    4. Displaying a chemical agent defined as:
      - a. to point a chemical agent at a suspect
    5. Uses or deploys a chemical agent defined as:
      - a. The operation of the chemical agent against a person in a manner capable of causing physical injury.
    6. Brandishes, uses, or deploys an impact weapon or electronic control weapon, intentionally or accidentally, defined as such:
      - a. The operation of an impact weapon or electronic control

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weapon against another person in a manner capable of causing physical injury.

7. Brandishes, uses, or discharges a firearm as defined as such:
  - a. The operation of a firearm against a person in a manner capable of causing physical injury.
8. Use of a chokehold or other similar restraint as defined as:
  - a. 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.
9. Conduct that resulted in serious bodily injury as defined as:
  - a. Bodily injury that creates or causes:
    - i. A substantial risk of death; or
    - ii. Unconsciousness; or
    - iii. Serious and protracted disfigurement; or
    - iv. Protracted loss or impairment of the function of any bodily member, organ, or mental faculty
10. Conduct that resulted in death.

**b. Supervisor Responsibility:**

- i. Where practicable, a supervisor will respond to the scene to begin the preliminary force investigation.
- ii. A supervisor that is made aware of a force incident shall ensure the completion of a Response to Resistance report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officers present.
- iii. Photographs will be taken which sufficiently document any injuries or lack thereof to officers or suspects.
- iv. The Chief of designee will receive the supervisor's report and conduct an investigation.


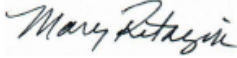
v.

**12. DEPARTMENT RESPONSE:**

**a. Administrative Review of Use of Force Incidents:**


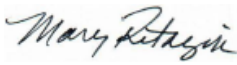
- i. All Response to Resistance reports will be reviewed by the appropriate departmental authority to determine whether:
  1. Departmental rules and policy or procedures were violated;
  2. The relevant policy was clearly understandable and effective to cover the situation;
  3. Departmental training is currently adequate.
- ii. All findings of policy violations or training inadequacies shall be reported to the appropriate authority for resolution and/or discipline.
- iii. All Response to Resistance reports shall be retained as required by law.
- iv. There will be regular review of the use of force incidents by the Chief of designee to ascertain training and policy needs.

**b. Deadly Force Incident:**

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- i. Where a police officer's use of force causes death, the officer shall be placed on administrative leave after complying with the internal investigation requirements of the department. Such officer shall remain on leave until it is determined by medical, mental and/or EAP professionals that the officer is fit to return to duty.
  - ii. The department shall conduct both an administrative and criminal investigation into the incident.
- c. **Submission to DCJS:**
- i. Effective June 11, 2019 The Chief of Police or designee will cause all use of force reports generated by this Department to be forwarded to the New York State Division of Criminal Justice Services in such manner prescribed by the Executive Law of New York State Section 837-T.



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**Item # 1**



University Police  
 State University of New York, College at New Paltz  
 Response To Resistance Report



Instructions: Complete electronically by typing in required fields until directed to stop and print on final page. **Each officer involved in incident must complete a separate report.**

Date of Incident  Full name of officer responding to resistance  Shield #

Officer status:  On duty  Off duty  Uniform  Plainclothes Other

Location of incident  Time of incident  UPD case #

Initial reason for contact

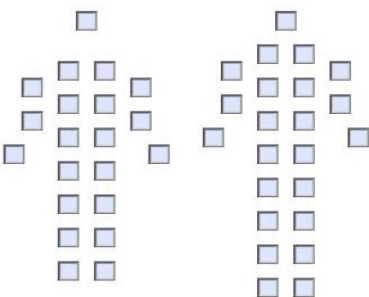
Force used against  Individual  Animal Other


**Force used on (use separate form for each person affected)**

Last Name <input type="text"/> First Name <input type="text"/> Middle Initial <input type="text"/>	Address <input type="text"/> City <input type="text"/> State <input type="text"/> Zip Code <input type="text"/> Date of birth <input type="text"/> Age <input type="text"/> <input type="checkbox"/> Male <input type="checkbox"/> Female SSN <input type="text"/> Race <input type="text"/> Height <input type="text"/> Weight <input type="text"/>
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**Initial force: Type of force used (check all that apply)**

Indicate below and on the diagram the location(s) on the persons's body force was used. Diagrams are not to take place of photos. At least three (3) photos are to be taken of injuries and submitted as evidence.

<input type="checkbox"/> Physical (include details here): <input type="text"/> <input type="checkbox"/> O.C. Spray <input type="checkbox"/> Baton <input type="checkbox"/> Taser <input type="checkbox"/> Other <input type="text"/>	 <p style="display: flex; justify-content: space-around; margin-top: 10px;"> <span>Front</span> <span>Back</span> </p>	<p>Location on body</p> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
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**Secondary force:** Type of force used (check all that apply)

Indicate below and on the diagram the location(s) on the persons's body force was used. Diagrams are not to take place of photos. At least three (3) photos are to be taken of injuries and submitted as evidence.

Location on body

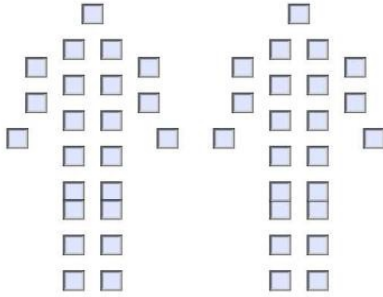
Physical (include details here):

O.C. Spray

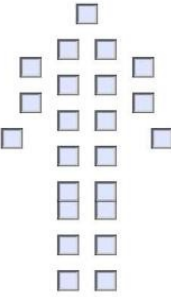
Baton

Taser

Other



Front



Back

Subject armed?  Yes  No If armed, select weapon type or fill in blank  Restraints Used?  Yes  No


Did subject appear to be under the influence of alcohol or drugs?  Yes  No  Unable to determine

Subject arrested?  Yes  No If arrested, list top three charges below

Law	Section	Description
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 95%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 95%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 95%;" type="text"/>

List witnesses to incident (use extra sheets of paper if necessary and attach.)

Name <input style="width: 95%;" type="text"/>	Name <input style="width: 95%;" type="text"/>
Address <input style="width: 95%;" type="text"/>	Address <input style="width: 95%;" type="text"/>
City <input style="width: 80%;" type="text"/> State <input style="width: 20%;" type="text"/> Zip Code <input style="width: 80%;" type="text"/>	City <input style="width: 80%;" type="text"/> State <input style="width: 20%;" type="text"/> Zip Code <input style="width: 80%;" type="text"/>
Phone Number <input style="width: 80%;" type="text"/> Date of birth <input style="width: 20%;" type="text"/>	Phone Number <input style="width: 80%;" type="text"/> Date of birth <input style="width: 20%;" type="text"/>

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If any injuries were incurred as a result of the use of force, provide the information below. This includes non-involved parties, officers, witnesses and suspect.

Injury type and location	Last name, First name	Home address	Phone number	Date of birth	Hospital or treatment facility

**Narrative**

Narrative instructions: The narrative should reflect the incident as a chronological account of the facts and relevant events that occurred and resulted in the use of force. Refrain from opinion and utilize facts only.

Officer's Last Name  Officer's First Name  Date

**STOP! Click to print out this form at this point. Complete remainder by hand.**

Forward form to on-duty supervisor. If no supervisor on -duty, forward form to next on-duty supervisor.

**Supervisor**

- I concur with the officer's action as detailed in this response to resistance report and the facts contained herein and forward same to the Chief of Police.
- I do not concur with the officer's action as detailed in this response to resistance report and the facts contained herein. As a result, I have submitted a memo attached to this form with my concerns and recommendations and forward same to the Chief of Police.

Print Name \_\_\_\_\_ Signed By \_\_\_\_\_ Date

**Chief of Police**

Notes:

Print Name \_\_\_\_\_ Signed By \_\_\_\_\_ Date