



BUFFALO STATE

The State University of New York

	SUBJECT Use of Force & Review of Firearms Use		GENERAL ORDER NUMBER 130.10
	DCJS STANDARDS 4.1, 9.1, 20.1, 20.5, 20.6, 21.1, 32.3, 43.8	REISSUE DATE (IF APPLICABLE) August 31, 2026	EFFECTIVE DATE February 16, 2011
			REVIEW DATE
	APPROVAL Steven W. Cahoon, Interim Chief of Police 		

A. Policy Statement

It is the policy of the University Police Department at SUNY Buffalo State that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all individuals without prejudice to anyone. Force is sometimes necessary to enforce the law and protect the public welfare; however, officers shall use only that level of force that is proportional to the threat being faced and which is objectively reasonable to control an incident, to effect an arrest, prevent an escape, or to protect themselves or others from personal harm or death.

The degree of force used by the officer should be within the limits established by Article 35 of the New York State Penal Law and consistent with the policies and training provided by either the University Police Department or Municipal Police Training Council of DCJS. While Article 35 authorizes force, it does not command it, and members are accountable and responsible for any distinctive policy restrictions herein. If circumstances dictate, the officer may bypass lower levels of force and immediately respond with a higher level. It is the responsibility of each officer to be knowledgeable of those requirements and understand that any and all actions will need to be documented in accordance with the procedures listed below.

The University Police Department requires all incidents involving use of force and/or discharge of a firearm (other than in training or recreational purposes) be properly investigated and documented. The Chief of Police, through the internal process described in Section J, below, will review all documentation and the disposition of any incident wherein (1) an officer discharges a firearm other than in training or recreation, or (2) an officer takes an action that results in, or is alleged to have resulted in, injury or death of another person. Through this process, the Department will ensure that all rules and regulations of the Department, as well as Article 35 of the New York State Penal Law, are followed and that documentation is maintained in the event of future litigation, that any training needs are identified and implemented, and the adequacy of currently issued equipment. The use of force reporting will also be in compliance with New York State Executive Law 840 (4)(d)(3), Executive Law 837-t and 9 NYCRR 6058 and the use of force policy will be conspicuously posted on the University Police website.

B. 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 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.

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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.
3. Non-Deadly Force: The use of force, including force considered to be “less lethal,” which is applied to effect an arrest or protect the officer or others from attack, physical resistance, harm, or death, but is not intended or expected to cause death.
4. Physical Injury: Impairment of physical condition or substantial pain.
5. 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. Brandish: to point a use-of-force implement in the direction of a person so as to indicate the deployment of such item is imminent.

C. Types of Force Definitions:

The types of force required to be reported are the following:

1. Brandish a chemical agent: To point a chemical agent at a subject.
2. Use/Deploy a chemical agent: The operation of the chemical agent against a person in a manner capable of causing physical injury.
3. Brandish/Use/Discharge a firearm: The operation of a firearm against a person in a manner capable of causing physical injury.
4. Brandish/Use/Deploy an impact weapon or electronic control weapon: The operation of an impact weapon or electronic control weapon against a person in a manner capable of causing physical injury.
5. Serious bodily injury: Bodily injury that creates or causes:
 - a. A substantial risk of death; or
 - b. Unconsciousness; or
 - c. Serious and protracted disfigurement; or
 - d. Protracted loss or impairment of the function of any bodily member, organ or mental faculty.
6. Use of force that causes physical injury or results in a complaint of injury by the suspect except complaints of minor discomfort from compliant handcuffing.

D. Determining the Objective Reasonableness of Force

When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event. Factors that may be used in determining the reasonableness of force include, but are not limited to, the following:

1. The severity of the crime or circumstance.
2. The level and immediacy of threat or resistance posed by the suspect.
3. The potential for injury to citizens, officers, and suspects.

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4. The risk or attempt of the suspect to escape.
5. The knowledge, training, and experience of the officer.
6. Officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects.
7. Other environmental conditions or exigent circumstances.

E. Duty to Intervene:

1. Any officer present and observing another officer using force that they reasonably believe 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 as described in #1, above, should promptly report these observations to a supervisor, as well as the NYS Attorney General's Law Enforcement Misconduct Investigative Office (LEMIO), pursuant to Section 75 of the Executive Law.

F. Use of Force:

1. Officers may use only that level of force which is reasonably necessary to control an incident, to affect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of oneself or another.
2. Factors that should be used in determining the reasonableness of force include, but are not limited to: the severity of the crime or circumstance; the level and immediacy of threat or resistance posed by the suspect; the potential for injury to citizens, officers, and suspects; the risk or attempt of the suspect to escape; the knowledge, training, and experience of the officer; officer/subject considerations such as age, size, relative strength, skill level, injury or exhaustion, and the number of officers or subjects; other environmental conditions or exigent circumstances.
3. Only issued or approved equipment will be carried on duty and used when applying physical force.
4. Officers shall use authorized less-than-lethal substances and devices such as self-defense spray, pursuant to department policy and training. The use of an active countermeasure, the baton, or self-defense spray shall be considered a use of force.
5. Use of restraining devices is mandatory on all prisoners unless, in the officer's judgment, unusual circumstances exist which make the use of restraining devices impossible or unnecessary (e.g. prisoner is very elderly, has a disability, etc.). The mere placing of handcuffs on a cooperative prisoner will not be construed to be a use of physical force. Compliant handcuffing and subsequent release without charges is also not considered a use of force. When the handcuffs become an appliance to exert force necessary to further subdue a prisoner or where the suspect physically resists the application of handcuffs, a use of physical force has occurred.
6. After physical force is used, an officer shall **immediately** evaluate the need for medical and/or mental health treatment for that person upon whom the physical force was used

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and arrange for such treatment when that person has a visible injury, complains of injury or discomfort, or requests medical attention.

- a. Serious or potentially life-threatening incidents require immediate aid from medical professionals.
- b. A supervisor shall immediately be advised of all injuries observed or reported.
- c. If medical aid is not provided, heightened observation to detect obvious changes in physical condition should take place.
- d. If chemical spray was utilized, officers should follow proper decontamination procedures in accordance with departmental training, and an evaluation by medical professionals should be considered.
- e. Officers should document any requests for necessary medical and/or mental health treatment as well as efforts by police to arrange for such treatment.

G. Use of Deadly Physical Force:

1. University Police officers will respond to any complaints involving armed individuals, robberies or other dangerous incidents that occur during their tours of duty.
2. University Police officers may use deadly physical force only as authorized by the provisions of Article 35 of the New York State Penal Law. Article 35.30 provides that an 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.
3. 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 to others.
 - c. Where feasible, some warning should be given prior to the use of deadly physical force.
4. Deadly physical force is not authorized against individuals who only pose a danger to themselves.
5. University Police officers are not required to retreat in lieu of the justifiable use of deadly physical force. However, deadly physical force must never be used if a less drastic means can be utilized without unreasonably endangering the officer or another person.
6. Firearms should not be discharged when it appears that a third party may be injured as a result.
7. Any officer, whose actions or use of force in an official capacity results in death or serious physical injury, shall be immediately assigned to administrative duties and shall not return to field assignments until an investigation has been satisfactorily completed and the officer has been determined to be fit for duty.
 - a. Due consideration shall be given to provide post-incident debriefing, counseling, or other necessary support for the officer involved.

H. Prohibited Use of Force:

1. The use of any force, up to and including lethal force, not reasonably necessary is expressly forbidden. Officers shall not unreasonably endanger themselves or the public in application of this policy.
2. Except for maintenance, end of shift storage or during training, police officers shall not draw or display their firearm unless circumstances create reasonable cause to believe it may be necessary to use the weapon in conformance with this policy.
3. The use of a chokehold or neck restraint is prohibited.
4. At no time shall officers utilize "hogtying" as a method to restrain an individual. Hogtying is defined as a four-position binding of a person's wrists and ankles together behind the back.
5. To extract an item from the anus or vagina of a suspect without a warrant, except where exigent circumstances are present.
6. To coerce a confession from a subject in custody.
7. To obtain blood, saliva, urine, or other bodily fluids or cells, from an individual for the purposes of scientific testing in lieu of a court order where required.
8. 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.
9. Shooting warning shots is prohibited.

I. Command / Supervising Officers Duties and Responsibilities:

If on duty, the commanding / supervising officer shall:

1. Respond to the scene of the incident immediately. In the absence of a commanding/supervising officer, it will be incumbent upon the officer to determine the seriousness of the incident or injury and, based upon these facts, it will be the officer's decision to notify the Chief of Police. Any injury resulting in transport to the hospital shall require notification of the Chief of Police.
2. Ensure that employees receive any necessary assistance, including medical treatment. They shall also ensure that any injuries to employees are properly documented in a police report.
3. Ensure that the Buffalo State Employee On-the-Job Accident Form is completed. The injury will also need to be reported to the New York State Accident Reporting System (888-800-0029).
4. Ensure that medical treatment (if required) is provided for the subject and/or officer.
5. Photographs should be taken which sufficiently document any injuries or lack of injuries to officer(s) and suspect(s).
6. Ensure that a thorough investigation is conducted and all required/necessary reports are prepared and submitted. In the event that an officer is unable to complete reports due to injury, the commanding/supervising officer will prepare or cause them to be prepared and submitted to the Chief and Assistant Chief of Police.

J. Chief / Assistant Chief of Police Responsibilities:

The responsibilities of the Chief and/or Assistant Chief of Police will be as follows.

1. Review the documentation and reports submitted.
2. Investigate the circumstances as necessary and/or appropriate.
3. Conduct necessary follow up, including any administrative actions warranted by the outcome of the investigation.
4. Add any additional narrative (as deemed necessary) to the police report and complete the Use of Force Report.

K. Use of Force Report & Firearms Discharge (Non-Deadly or Deadly) Reporting Process:

1. In any case involving the use of any type of force defined above, (non-deadly or deadly), the following procedures will apply.
 - a. Officers will report to their immediate supervisor any use of force by any officer.
 - b. Officers will complete both a police report and a department Use of Force Report. If more than one officer is involved in the incident, each officer shall document their observations in separate Use of Force Reports. All Use of Force Reports will be electronically sent to the Chief and Assistant Chief of Police before the end of the supervisor's (if on duty) shift or officer's shift (if no supervisor on duty).
 - c. A Use of Force Report or other appropriate/required reports as indicated will be completed when any of the incidents listed in Section C occurs.
 - 1) In the case of off-duty incidents, the employee shall immediately, if outside the University, notify the police agency within that jurisdiction and complete the appropriate report(s) and notify the Chief and/or the Assistant Chief of Police.
2. All officers are required to **immediately** report any voluntary or involuntary discharge of a firearm, whether occurring on or off duty, to the Chief of Police through the chain of command. Exception: This requirement excludes recreational shooting, practice or training.
3. NYS Executive Law section 837-v Report of Discharge of a Weapon: Any law enforcement officer or peace officer who discharges his or her weapon while on duty or off duty under circumstances wherein a person could be struck by a bullet from the weapon, including situations wherein such officer discharges his or her weapon in the direction of a person, shall verbally report the incident to his or her superiors within six hours of the occurrence of the incident and shall prepare and file a written report of the incident within forty-eight hours of the occurrence of the incident. Nothing contained in this section shall prevent any officer from invoking his or her constitutional right to avoid self-incrimination.

L. Submission and Review Process – Use of Force Report

1. Each officer who is required to complete a Use of Force Report will forward the completed report to the shift supervisor prior to the end of their shift.

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2. The shift lieutenant who was on duty at the time of the incident will review the report for accuracy and completeness, record their comments and recommendations prior to the end of their shift, and forward the report to the Chief and Assistant Chief of Police. The only exception is when the shift lieutenant is also involved in the force application. In that instance, either another lieutenant, the Assistant Chief or Chief will review the report.
3. The Chief of Police will review the incident, document their findings on the Use of Force Report, and determine whether any further follow-up actions are recommended or required.

M. Assignment to Administrative Duty:

1. When an officer is involved in a shooting or use of a countermeasure that results in serious physical injury or death, the Chief of Police or designee will assign that member to administrative duty. The assignment to administrative duty makes no statement as to the guilt or innocence of the officer involved.
2. The administrative duty will not place the officer in a position where the potential for resistance incidents may occur due to the nature of the assignment.
3. Administrative duty assignment will be made in the best interest of the University Police Department and the officer, pending department and legal review (i.e., Grand Jury) and disposition of the incident.
4. When an officer is assigned to administrative duty, they will refrain from routine exercise of police arrest and intervention situations.

N. Training:

In accordance with General Order 210.10, In-Service Training, all sworn personnel are required to successfully complete periodic training which must include:

1. All officers should receive training and demonstrate their understanding on the proper application of force.
2. Additional training topics will include 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.

O. Online Reporting to DCJS:

All Qualifying Use of Force Reports are to be submitted to DCJS by the department's Terminal Agency Coordinator (TAC) filing the report using the online reporting tool on a monthly basis.