


New York State University Police At SUNY Fredonia

General Order

 <p>NEW YORK STATE UNIVERSITY POLICE</p>	<small>SUBJECT</small> Use of Force	<small>GENERAL ORDER NUMBER</small> 130.10
	<small>DCJS STANDARDS</small> 20.1, 20.5, 20.6, 21.1, 32.3	<small>EFFECTIVE DATE</small> March 21.2013
	<small>APPROVAL</small> Gordon Carpenter, Jr., Chief of Police	<small>REVISION DATE</small> October 29, 2024

A. Policy Statement:

It is the policy of the SUNY Fredonia Police Department that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. Officers shall use only that level of force that is proportional to the threat being faced and which is reasonably necessary to control an incident, to affect an arrest, or to protect themselves or others from personal harm or death. The application of deadly force is a measure to be employed only in the most extreme circumstances when all lesser means of force have failed or could not reasonably be employed. The degree of force used by the officer shall be within the limits established by Article 35 of the New York State Penal Law, and consistent with training provided by this department and the guidelines established by this policy.

B. Definitions:

1. **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.
2. **Force:** The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.
3. **Non-deadly force:** The use of force which is applied to affect 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. **Reasonable cause to believe:** A belief based upon facts and circumstances within the officer's knowledge which would be sufficient to cause a reasonably prudent person to reach a similar conclusion.

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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.

C. Use of Force:

1. Officers use only that level of force which is reasonably necessary to control an incident, to affect an arrest, or to protect themselves or others from personal harm or death.
2. If circumstances dictate, the officer may bypass lower levels of force and immediately respond with a higher level.
3. By law, an officer need not retreat in performance of their lawful duties, but a tactical retreat in some situations may be a wise choice. This is true even when use of force may be legally justified. De-escalation techniques shall be employed prior to use of force whenever possible.
4. Only issued or approved equipment will be carried on duty and used when applying physical force; except in emergency situations when an officer must use any resources at their disposal.
5. Officers shall use authorized less-than-lethal substances and devices such as self-defense spray, pursuant to departmental policy and training. The use of an active countermeasure, the baton, or self-defense spray shall be considered a use of force.
6. Specialized less-lethal equipment utilized by trained officers may be deployed. Although the use of this equipment on individuals is intended to be non-deadly force, potential for death and serious physical injury does exist, and due care must be exercised.
7. 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 or handicapped, etc.) The mere placing of handcuffs on a prisoner will not be construed to be a use of physical 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.

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8. After physical force is used, an officer shall immediately 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.
 - a. Serious or potentially life-threatening incidents require immediate aid by medical professionals.
 - b. A supervisor shall be immediately 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, the eyes and other affected areas should be flushed with water, and an evaluation by medical professionals should be considered.
9. 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.
10. Duty to intervene - If officers witness unnecessary or excessive force, they have a duty to intervene as necessary to stop the force being used.

D. Use of Deadly Physical Force:

1. SUNY Fredonia Police Officers will respond to any complaints involving armed individuals, robberies, or other dangerous incidents that occur during their tours of duty.
2. Members of the SUNY Fredonia Police Department may use deadly physical force only as authorized by the provisions of Section 35 of the New York State Penal Law, including but not limited to sections 35.30, 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, or to prevent the escape of a fleeing felon, as stated in section 35.30, whom the officer has

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reasonable cause to believe will pose a significant threat to human life should escape occur.

3. Deadly force is not authorized against persons who only pose a danger to themselves.
4. Police officers are not required to retreat in lieu of the justifiable use of deadly physical force. Nevertheless, deadly physical force must never be used if a less drastic means can be used without unreasonably endangering the officer or another person.
5. No officer shall draw or exhibit any firearm unless the circumstances establish a reasonable cause to believe that it may be necessary to use the firearm in conformance with this policy.
6. It shall be this department's policy that a SUNY Fredonia Police Officer is justified in firing of their firearm in the following limited circumstances:
 - a. The defense of their own life, or;
 - b. The defense of a fellow officer's life or the life of a third person or;
 - c. To prevent the actual commission of a violent felony, (those stated in Section 35.15, 35.20, and 35.30 of the N.Y.S. Penal Law) where human life is being jeopardized by the subject.
 - d. The above-mentioned instances relate solely to self-defense of a 3rd person from deadly physical force.
 - e. The destruction of an animal for humanitarian purposes.
7. Firearms may be used against animals:
 - a. When they are attacking or presenting an imminent danger to any person.
 - b. For critically sick or injured wild animals; when authorized by a supervisor.
 - c. In accordance with NYS Environmental Conservation Law section 11-09:15, if the animal destroyed is a deer or bear, a Carcass Possession Permit must be issued by the officer to any person taking possession of the carcass. A supply of the permits has been placed in the dispatch area.
8. Firearms should not be discharged when it appears that a third party may be injured as a result.
9. Shooting warning shots is prohibited.

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10. Shooting from a moving vehicle or shooting at a moving vehicle is prohibited except under the limitations of section 35.30 of the penal law, and when the force being directed at the officer is something other than the vehicle itself.
11. Unauthorized use of a firearm shall be cause for disciplinary action up to and including termination. The reckless or criminally negligent conduct by a SUNY Fredonia Police Officer in the use of a firearm amounting to an offense against or with respect to innocent persons whom he/she is not seeking to arrest or retain in custody, will result in that individual officer being personally responsible for justifying his or her action, both criminally and civilly.
12. Chokeholds and carotid restraints are not used or trained by members of the University Police and are prohibited. However, an officer facing a lethal force situation where such a use of force, tactic, or technique is an option of last resort or where deadly physical force is authorized, an officer may use a chokehold, carotid restraint, neck restraint technique, or any other force or tactic necessary to prevent a use of force that could cause serious physical injury or death to themselves or a third party.

E. Use of Force Report:

1. All officers are required to report to their immediate supervisor any use of force by any officer. (For reporting purposes, Executive Law 837-t requires each police department, county sheriff, and the state police to report any occurrence in which a police officer or peace officer employs use of force.)
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.
 - a. Exception - This requirement excludes recreational shooting, practice or training.
3. A Use of Force Report is to be completed by an officer whenever force has been used by that officer on or off duty that would be considered under color of employment as a police officer.
4. When an officer engages in conduct which results in the death or serious bodily injury of another person. Serious bodily injury is defined as bodily injury that involves a substantial risk of death, unconsciousness,

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protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

5. A Use of Force Report will be completed when one of the following is initiated by the officer:
 - a. Brandishes, uses, or discharges a firearm at or in the direction of another person (other than for routine maintenance or training).
 - b. Long guns have been deployed at a scene or incident.
 - c. A firearm is used to destroy an animal.
 - d. Any voluntary or involuntary discharge of a firearm unrelated to a use of force.
 - (1) Exception - practice or recreational shooting as previously noted in this directive.
 - (2) The officer, and all witnessing officers, shall include the full circumstances of the weapon's discharge and all relevant information related to the incident.
 - e. Uses a chokehold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air.
 - f. Displays, uses or deploys a chemical agent, including, but not limited to, oleoresin capsicum, pepper spray or tear gas.
 - g. Brandishes, uses or deploys an impact weapon, including, but not limited to, a baton or billy club.
 - h. Brandishes, uses or deploys an electronic control weapon, including, but not limited to, an electronic stun gun, flash bomb, or long-range acoustic device.
6. Submission and review process for the Use of Force Report:
 - a. Use of Force Reports can document uses of force by up to three police officers or against up to three subjects. Involvement of more officers or subjects require additional forms.
 - b. Each officer who is required to complete a Use of Force Report will forward the completed report to their immediate supervisor prior to the end of their shift.
 - c. The shift lieutenant who was on duty at the time of the incident will review the report for accuracy and completeness and record comments and recommendations prior to the end of their shift, and forward same to the Chief of Police.
 - d. The Chief of Police will, in turn, review the incident, document their findings on the Use of Force Report, and determine whether any further follow-up actions are recommended or required.

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7. Reports on use of force shall be posted annually along with Internal Affairs complaints including, officer involved shootings and deployment of less than lethal options.
8. Storage of firearms:
 - a. All firearms shall be stored in an appropriately secured area (assigned gun locker or departmental firearms safe) within the State University Police Department. The department owned and issued pistol shall not be taken home unless authorized by the Chief of Police. The Chief of Police and his or her designee shall have access to all firearms.
 - b. Loading and unloading of all firearms shall be done with the use of the firearm charging barrel, by the officer assigned to carry the specific firearm.
 - c. At any time while on official business off campus, all University Police Officers will be required to wear their issued sidearm whenever in uniform.
 - d. Personally owned weapons may be stored in an officer's assigned gun locker when said officer is on-duty.