



New York State University Police Department at Geneseo

	GENERAL ORDER: 335	SUBJECT: Resistance Use of Force
	EFFECTIVE DATE: October 10, 2019	RESCINDS: Re-Issue
	AUTHORIZED BY:  Thomas J. Kilcullen, Chief of Police	NYS ACCREDITATION: 20.1, 20.6, 21.1

I. PURPOSE

To establish policy and procedures for subject resistance as it relates to the use and investigation of the use of physical force by members of the University Police Department.

II. DEFINITIONS

- A. 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.
- B. Medical Attention: The summoning of an ambulance and/or a certified Emergency Medical Technician (EMT).
- C. Medical Treatment: Medical care received at a medical facility, e.g. hospital.
- D. 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 the force was used.
- E. Physical Force (Force): Any intentional personal physical strength exerted or implement usage brought to bear upon or against a person for the purpose of compulsion, constraint or restraint.
- F. Physical Injury: Impairment of physical condition or substantial pain.
- G. 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.

III. POLICY

A. Use of Force

- 1. While in the performance of their duties, members may use only that level of physical force necessary within the limits established by Article 35 of the New York State Penal Law, and consistent with the policies and training of the University Police Department. The appropriateness of force used is dependent upon what is objectionably reasonable at the moment the force is used.
- 2. Under Article 35 of the New York State Penal Law physical force may be used:
 - a. When reasonably believed to be necessary to effect a lawful arrest or detention;
 - b. To prevent the escape of a person from custody; and
 - c. In defense of one's self or another.

3. The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force. However, when 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.
- B. 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.

Factors that may be used in determining the reasonableness of force include, but are not limited to:

1. The severity of the crime or circumstances;
 2. The level and immediacy of threat or resistance posed by the suspect;
 3. The potential for injury to citizens, officers and suspects;
 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; and
 7. Other environmental conditions or exigent circumstances.
- C. Use of Deadly Physical Force
1. In accordance with Article 35 of the New York State Penal Law, members of the University Police Department may use deadly physical force:
 - a. To protect and defend the member or another person from what the member reasonably believes to be an imminent threat of death or serious physical injury;
 - b. To prevent the escape of a fleeing suspect when:
 - i. there is probable cause to believe the suspect has committed a felony involving the infliction or threat of serious physical injury or death AND
 - ii. the member reasonably believes that the suspect poses imminent threat of serious physical injury to the member or others.
 2. The justification to use deadly physical force does not permit reckless conduct by members if such use may injure third parties.

D. Responsibility of Members

1. It is the responsibility of each member to be aware of the requirements of Article 35 of the New York State Penal Law and to ensure their actions are consistent with that law, department policy and training.
2. Only issued or approved equipment will be carried while on duty and used when applying physical force, except in emergency situations when a member must use any resources at their disposal.
3. Members shall use less-than-lethal substances and devices, such as self-defense spray, pursuant to Article 35 of the New York State Penal Law, departmentally approved training and current directives.
4. 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.

5. Any officer who observes another officer use force that exceeds reasonable force shall promptly report those observations to a supervisor or the Assistant Chief, if no shift supervisor is on duty.

E. Prohibited Use of Force

1. To coerce a confession from a subject in custody;
2. To extract an item from the anus or vagina of a subject without a warrant, except when exigent circumstances are present;
3. To obtain blood, saliva, urine or other bodily fluid or cells, from a subject for the purposes of scientific testing in lieu of a court order where required; and
4. Against person who is handcuffed or otherwise restrained unless it is to prevent injury, escape or otherwise overcome active or passive resistance by the subject.

IV. PROCEDURES

A. Members involved in on-duty use of force incidents shall:

1. Immediately evaluate the need for medical attention or for medical treatment for the subject upon whom the physical force was used;
2. Arrange for medical attention when the subject complains of injury or specifically requests such attention;
3. Notify an on-duty shift supervisor immediately after the incident, or the Assistant Chief if no shift supervisor is on-duty;
4. Attempt to locate and identify any witnesses and obtain a deposition which describes their observations of the incident.

B. Members involved in off-duty incidents involving physical force pursuant to their status as a police officer will immediately notify the law enforcement agency with primary jurisdiction where the incident occurred. Such incidents must be reported to a University Police on-duty shift supervisor as soon as possible, or the Assistant Chief if no shift supervisor is on-duty.

C. Members shall prepare and submit all reports required by current directives and forward them through the chain of command for review.

D. Supervisory responsibilities:

1. If available, immediately respond to the scene of a use of force incident;
2. Ensure that members receive any necessary assistance, including medical treatment and that any injuries or exposures to members are properly documented;
3. Determine if an Evidence Technician is needed to respond to the scene and the level of technician services to be utilized (including photos, measurements and diagrams);
4. Ensure that photographs are taken in order to sufficiently document any injuries, or lack thereof, on subjects or involved officers

NOTE: A photograph showing no injury may be as important as one that shows injury;

5. Ensure a thorough investigation is conducted and all reports are accurately prepared and submitted. In the event that a member is unable to complete reports due to injuries, the supervising officer will prepare or cause them to be prepared and submit them through the chain of command.

E. Use of Force Report Form

1. A Use of Force Report Form (Attachment) shall, as soon as possible, be completed in its entirety by each member who is present during any use of physical force;
2. A Use of Force Report Form will be completed for the following use of force incidents:
 - a. Any use of physical force on a subject;
 - b. Any time a member displays a firearm or less-than-lethal device (OC spray, baton, etc.) in a manner intended to gain compliance from a subject;
 - c. When a subject alleges injury or improper use of force even if no physical force was used; and
 - d. As directed by supervision or command staff.
3. A Use of Force Form is not required in situations where force is used against an animal. However, an Incident Report must be completed.
4. All information will be noted specifically and precisely on the Use of Force Form. "N/A" will be noted on any sections of the report not applicable to the incident.
5. Upon completion, the Use of Force Report Form shall be forwarded through the chain-of-command to the Chief of Police for final review. Each level of supervisory review shall be indicated by signature, initials, or check box as appropriate.
6. The Chief of Police or their designee, will conduct a thorough administrative review of the incident in comparison to department policy, guidelines and appropriate rules of law and take action as necessary while operating within the confines of the collective bargaining agreement.

V. TRAINING

- A. All officers should receive training and demonstrate their understanding on the proper application of force.
- B. 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.
- C. 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.

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Attachment – Use of Force Report Form



UNIVERSITY POLICE DEPARTMENT

State University of New York – Geneseo
G.O. 603 Attachment – Use of Force Report Form

1) DATE		2) TIME		3) LOCATION			4) CA #	
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):								
<input type="checkbox"/> TO AFFECT AN ARREST <input type="checkbox"/> TO DEFEND ANOTHER OFFICER / PERSON <input type="checkbox"/> TO DISPATCH AN ANIMAL			<input type="checkbox"/> TO DEFEND SELF <input type="checkbox"/> PROTECTIVE CUSTODY / SUBJECT SAFETY <input type="checkbox"/> OTHER:			<input type="checkbox"/> TO PREVENT ESCAPE <input type="checkbox"/> TO CONTROL AN INCIDENT		
11) LIST MOST SERIOUS OFFENSE(S) AT TIME FORCE USED:								
12) NUMBER OF SUBJECTS THAT RESISTED:				13) RESTRAINT METHOD USED:				
14) SUPERVISOR NOTIFIED / TIME / BY WHOM:				<input type="checkbox"/> HAND OR FLEX CUFFS <input type="checkbox"/> BODY GUARD <input type="checkbox"/> OTHER: <input type="checkbox"/> LEG RESTRAINTS <input type="checkbox"/> SPIT SHIELD <input type="checkbox"/> NONE 				
15) AT THE TIME OF ARREST, THE SUBJECT WAS:								
<input type="checkbox"/> SUSPECTED TO BE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS <input type="checkbox"/> UNDER THE INFLUENCE OF ALCOHOL OR DRUGS			<input type="checkbox"/> MENTALLY IMPAIRED / EMOTIONALLY DISTURBED <input type="checkbox"/> OTHER:					
16) OFFICER'S PERCEPTION OF INDIVIDUAL'S ACTIONS (Use narrative on next page to describe perceived threat(s) posted by individual):								
<input type="checkbox"/> PASSIVE RESISTANCE – (Dead weight or non-compliance to Officer's lawful verbal direction, but offering no actively resistive movement)								
<input type="checkbox"/> 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.)								
<input type="checkbox"/> 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.)								
<input type="checkbox"/> 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):								
<input type="checkbox"/> PRESENCE: <input type="checkbox"/> FULL UNIFORM <input type="checkbox"/> PARTIAL UNIFORM <input type="checkbox"/> PLAINCLOTHES								
NOTE: Officers not in full uniform, describe means of visual police identification (e.g. raid vest or jacket, displayed badge/ID, etc.)								
<input type="checkbox"/> VERBAL COMMANDS:								
<input type="checkbox"/> COMPLIANCE TECHNIQUES: Force used to gain control – restraint, come-alongs, takedowns – use of hands, arms, feet, legs								
<input type="checkbox"/> OC SPRAY: Number of Bursts: _____ Duration of Bursts: _____ Distance from Subject: _____ Impact Location: _____ Time between application / decontamination: _____								
<input type="checkbox"/> IMPACT WEAPON / TEMP. INCAPACITATION: <input type="checkbox"/> DISPLAY ONLY (Not Used)								
<input type="checkbox"/> ELECTRONIC CONTROL DEVICE: <input type="checkbox"/> DISPLAY ONLY (Not Used)								
<input type="checkbox"/> Laser Only Impact Location: _____ Taser Unit #: _____			<input type="checkbox"/> Spark Check Number of Cycles: _____ Serial #: _____			<input type="checkbox"/> Drive Stun Distance from Subject: _____ Cartridge Serial #: _____		
<input type="checkbox"/> POINT A FIREARM:								
<input type="checkbox"/> DEADLY FORCE – Firearm or other:								
<input type="checkbox"/> NO FORCE USED – Subject alleges injury / improper force:								
<input type="checkbox"/> OTHER:								
18) WAS SUBJECT(S) INJURED? <input type="checkbox"/> YES* <input type="checkbox"/> NO (*Complete diagram / description below) SUBJECT NAME:								
<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 20px;"> </div> <div> <p>18a) DESCRIBE THE EXTENT OF SUBJECT'S INJURIES AND PLACE ON THE DIAGRAM:</p> <p>18b) WAS MEDICAL ASSISTANCE PROVIDED TO SUBJECT? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> REFUSED BY WHOM: _____</p> </div> </div>								
19) WAS OFFICER(S) INJURED? <input type="checkbox"/> YES* <input type="checkbox"/> NO (*Complete diagram / description below) OFFICER NAME:								
<div style="display: flex; align-items: flex-start;"> <div style="margin-right: 20px;"> </div> <div> <p>19a) DESCRIBE THE EXTENT OF OFFICER'S INJURIES AND PLACE ON THE DIAGRAM:</p> <p>19b) WAS MEDICAL ASSISTANCE PROVIDED TO OFFICER? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> REFUSED BY WHOM: _____</p> </div> </div>								

SUNY GENESEO UNIVERSITY POLICE DEPARTMENT USE OF FORCE OFFICER NARRATIVE		
CA#:		
20) OFFICER(S) TAKING PHOTOS:	21) TOTAL # OF PHOTOS:	22) AUDIO-VISUAL EVIDENCE: <input type="checkbox"/> YES <input type="checkbox"/> NO If NO, explain:
23) SHIFT OFFICER(S):		24) OFFICER(S) PRESENT AT SCENE DURING FORCE APPLICATION:
25) SHIFT LIEUTENANT(S):		26) SUPERVISOR(S) WHO RESPONDED TO SCENE:
27) WITNESS(ES) OR PERSON(S) WITH KNOWLEDGE:	ADDRESS:	PHONE NUMBER:
1)		
2)		
3)		
4)		
28) OFFICER 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 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? <input type="checkbox"/> YES <input type="checkbox"/> NO	35) WAS OFFICER(S) INJURED? <input type="checkbox"/> YES <input type="checkbox"/> NO
36) LIEUTENANT NARRATIVE: Document steps taken to review and evaluate Officer's use of force.		
37) A/V EVIDENCE AVAILABLE & REVIEWED BY LIEUTENANT: <input type="checkbox"/> YES <input type="checkbox"/> NO DATE:	38) A/V EVIDENCE AVAILABLE & REVIEWED BY ASSISTANT CHIEF: <input type="checkbox"/> YES <input type="checkbox"/> NO DATE:	39) A/V EVIDENCE AVAILABLE & REVIEWED BY CHIEF OF POLICE: <input type="checkbox"/> YES <input type="checkbox"/> NO DATE:
40) ASSISTANT CHIEF / CHIEF OF POLICE REVIEW NARRATIVE: Confirm proper and complete investigation was conducted.		
LIEUTENANT NAME: (Print)	SIGNATURE:	DATE:
ASSISTANT CHIEF NAME: (Print)	SIGNATURE:	DATE:
CHIEF OF POLICE NAME: (Print)	SIGNATURE:	DATE:

SUPERVISORY / COMMAND: REVIEW AND CRITIQUE USE OF FORCE WITH INVOLVED OFFICER(S). NOTE FINDINGS ABOVE AND FORWARD COMPLETED PACKET TO SUPERVISOR, AS APPLICABLE.
 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 complaint of injury; or any other time deemed appropriate by a supervisor.