

GENERAL ORDERS

G.O. 900

DEFENSIVE ACTIONS

<input type="checkbox"/> new: <input type="checkbox"/> rescinds <input checked="" type="checkbox"/> amends: All previous		cross-reference: NYS Penal Law – Article 35
effective date: June 10, 2019	amend date: June 10, 2019	accreditation standards: NYSLEAP: 20.1, 20.4, 20.7, 21.1, 21.2 & 32.4

I. PURPOSE

The purpose of this Order is to establish policies and procedures for the use of physical force and deadly physical force in general and firearms in particular.

II. POLICY

- A. University Police recognizes and respects the value and integrity of each human life. University Police also recognizes and accepts the profound responsibility that our lawful authority to use physical force and deadly physical force carries with it.
- B. All use of physical force and deadly physical force will be consistent with applicable legal principles and this Order.
- C. All use of physical force or deadly physical force will be to protect the officer or another person or to effectuate a valid and lawful public safety or law enforcement purpose.
- D. This Order applies to all use of defensive actions and deadly physical force by all employees of the University Police while on duty. It also applies to all off-duty uses of physical force and deadly physical force in which the officer is acting pursuant to his or her authority as a police officer or using any department - issued weapon, ammunition, or other equipment.
- E. In using defensive actions or deadly physical force officers should avoid creating an unreasonable risk to bystanders or persons other than the intended subject of the force. However, nothing in this Order should be construed to restrict or limit an officer’s legal right to self-defense or to defend another person.
- F. In considering the use of a firearm, University Police officers must keep in mind that an individual officer alone is responsible for his or her acts and that he or she may be required to justify them in administrative hearings and courts of law.
- G. Anytime a University Police officer uses defensive actions physical force beyond cooperative handcuffing for any reason, a *Defensive Action Report* shall be completed (see GO 902).
- H. Anytime a University Police Officer uses any defensive actions or deadly physical force the supervisor shall complete the *Supervisor Inquiry of Officer Defensive Action Report*. (See GO 902 *Defensive Action Report*).

III. USE OF DEFENSIVE FORCE

Personnel will use only the force necessary to accomplish the lawful objectives set forth below:

1. Self-Defense or Defense of Another Person

- An officer may use defensive actions when and to the extent the officer reasonably believes it to be necessary to defend him/herself or a third person from what the officer reasonably believes to be the use or imminent use of unlawful physical force.

2. To Effect an Arrest or Prevent an Escape

- An officer, in the course of effecting an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom the officer reasonably believes to have committed an offense, may use defensive actions when and to the extent the officer reasonably believes it to be necessary to effect the arrest, or to prevent the escape from custody, or to defend him/herself or a third person from what the officer reasonably believes to be the use or imminent use of physical force.

3. Prevention of Suicide

- An officer acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon him/herself may use defensive actions upon such person only to the extent that the officer reasonably believes it necessary to prevent such result.

4. Protection of Property and Premises

- An officer may use defensive actions, other than deadly physical force, upon another person when and to the extent that he/she reasonably believes it to be necessary to prevent what he/she reasonably believes to be the commission or attempted commission of a larceny, criminal mischief, or a crime involving damage to premises, or criminal trespass.

IV. USE OF DEFENSIVE ACTIONS & DEADLY PHYSICAL FORCE

- A. As authorized by the provisions of Article 35 of the Penal Law, University Police officers may use defensive actions (physical force) to affect a lawful arrest or to lawfully detain a person.
- B. As authorized by the provisions of Article 35 of the Penal Law, including but not limited to section 35.30, a University Police 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 whom the officer has reasonable cause to believe will post a significant threat to human life should the escape

occur. Firearms shall not be discharged when it appears that a third party may be injured as a result. A University Police officer shall not draw or exhibit any firearm unless circumstances create reasonable cause to believe that it may be necessary to use the firearm in conformance with this policy. A *Defensive Action Report* and the *Supervisor Inquiry of Officer Defensive Action Report* will be completed in all cases where a firearm is drawn or exhibited at the discretion of a Supervisor or the Chief of Police.. (See GO 903 Investigation of Use of Deadly Physical Force).

- C. All defensive actions shall be documented on a *Defensive Action Report* (see GO 902 *Defensive Action Report*) and on a New York State Standardized Incident Report. It is important that the justification for the defensive action also be included in the New York State Standardized Incident Report narrative. The initial incident shall be investigated by the on-duty supervisor, documented on a *Supervisor Inquiry of Officer Defensive Action Report* and the proper notification made. The on-duty supervisor will then forward the *Defensive Action Report*, and *Supervisory Inquiry of Officer Defensive Action Report* and any investigative reports or notes to the Chief of Police. The Chief of Police will then review the incident with the Lieutenant and/or the District Attorney's Office. If deemed necessary, another outside law enforcement agency may be utilized. The Chief will determine if the amount of force was necessary, whether University Police policies were followed, if additional training is needed, etc. Necessary steps shall be determined by the Chief of Police to resolve the matter.
- D. In the case of destroying an injured animal or an animal that represents an immediate threat to human life the incident shall be documented on a 2A Service Report "Animals" and will be reviewed by the on-duty supervisor and forwarded to the Chief of Police for review.
- E. The officer and supervisor shall immediately evaluate the need for medical attention for the person upon whom the defensive action was used and arrange for such treatment. If treatment is needed the officer shall obtain a copy of or complete a CS-13. All injuries, whether treatment is received or not will be documented on a New York State Standardized Incident Report and photographs taken.

V. USE OF LESS THAN LETHAL SUBSTANCES AND ASP BATON

- A. Oleoresin Capsicum (O.C.) Spray
 - 1. Officers may use O.C. spray at any use of force level higher than that of a compliant subject to gain control and compliance from the subject. Once O.C. spray has been deployed and compliance has been gained, the further use of O.C. spray is prohibited. Once a subject is under control, medical personnel shall be summoned as soon as possible to begin de-contamination procedures as outlined in the specific guidelines set forth in training for the use of O.C. spray. Officers must complete an initial training program in the use of O.C. Spray, with periodic training after the initial training to maintain proficiency in its use. (See also GO 904 Use of Non Lethal Chemical Agents).
- B. ASP® Tactical Baton
 - 1. Officers may utilize the ASP tactical baton at level three or higher of the use of force model to gain compliance of an actively resistant subject. These strikes shall be made in accordance with the training specifically received in the use of the ASP baton with the intent of using less than lethal force on an actively resistant or assaultive subject. If a subject is engaged in actions that

represent a serious threat of bodily injury or death, the ASP baton may be used for strikes that could potentially be lethal to the subject in order to cease such seriously assaultive or deadly force against a University Police officer or a third party. Officers must complete an approved training course in the use of the ASP baton, and must complete periodic training thereafter to maintain proficiency in the use of the baton.

C. Electronic Control Device (ECD) – TASER

1. Officers may use a TASER at any use of force level higher than that of a compliant subject to gain control and compliance from the subject. Once a Taser has been deployed and compliance has been gained, the further use of the Taser is prohibited. Once a subject is under control, medical personnel shall be summoned as soon as possible to remove TASER prongs that are embedded into bone or located in a sensitive area as outlined in the specific guidelines set forth in training for the use of ECD /TASER. Officers must complete an initial training program in the use of the TASER, with bi annual training after the initial training to maintain proficiency in its use. (See also GO 803 Use of Electronic Control Device (ECD) – Advanced Taser)

VI. **USE OF FIREARMS**

An authorized University Police officer shall adhere to the following restrictions when any firearm is exhibited:

A. Warning Shots

1. Warning shots are not permitted.

B. Moving Vehicles

1. A University Police officer will not discharge a firearm from a moving vehicle under normal circumstances.

C. Dry Firing

1. An officer may not dry fire his or her weapon except under the supervision and authorization of a certified firearms instructor or as needed to disassemble the weapon for cleaning or repair.
2. Notwithstanding the restrictions on the use of firearms as set forth in section IV (B); firearms may be drawn for cleaning, proper range training, building searches and supervisory inspection.

D. Intentional Discharge of Firearm

1. A University Police officer will not intentionally discharge a firearm unless:
 - The officer reasonably believes that circumstances exist which justify the use of deadly physical force under this Order;
 - The officer reasonably believes that circumstances exist justifying the use of a

firearm against an injured animal or an animal that represents an immediate threat to human life;

➤ The discharge is part of department-authorized training.

2. All intentional discharges of a firearm, with the exception of training and animal dispatch, will be reported on a *Defensive Action Report* and the incident shall be handled as in section IV (C) of this General Order, with the addition of the, available, most senior firearms instructor assisting in the investigation.
3. In considering the use of a firearm, University Police officers must keep in mind that the individual officer alone is responsible for his or her acts and that he or she may be required to justify them in administrative hearings and courts of law.
4. The firearm used by the University Police officer in the incident will be removed for investigation and storage and will be replaced as soon as practical.

E. Accidental Discharge of Department Firearm

1. Immediately after the round is fired, the officer must first holster the weapon securely.
2. The officer must then notify the supervisor in-charge immediately, as well as to make certain that no persons have been injured in any way.
3. If any person is injured as a result of the accidental discharge the incident will be investigated as a deadly physical force incident in accordance with the procedures set forth in department General Orders.
4. The supervisor in-charge shall notify the Chief of Police and the most senior firearms instructor available.
5. The Chief and the available most senior firearms instructor will immediately respond and investigate the circumstances of the incident. If circumstances call for further assistance the Chief will direct other University Police personnel to assist in the investigation.
6. A Firearms Incident Review Report shall be completed by the Senior Firearms Instructor and any other assigned department personnel. All assigned personnel will sign the form and submit to the Chief of Police for final review.
7. The Chief of Police shall decide for follow up action ranging from counseling, discipline, additional training, etc. A determination shall be made within a reasonable time.

VII. **GENERAL CONSIDERATIONS**

A. Notification

1. Each University Police officer shall report as soon as practical in person or by telephone to the on-duty supervisor any defensive action incident, beyond cooperative handcuffing, to include voluntary or involuntary discharge of a firearm, except during official firearm training sessions or dispatch of an animal. The report shall include the full circumstances of the incident and all relevant information related to the incident. The on-duty supervisor will respond immediately to the scene and take charge. The supervisor shall document the incident and make appropriate notifications to management. Off-duty uses of force shall be reported as soon as practical to the law enforcement agency that has jurisdiction and to the on-duty University Police Supervisor.

B. Violation Of Regulations

1. Any violation of the regulations contained herein may be cause for administrative and/or disciplinary action.

C. Verbal Warnings

1. If feasible, officers will identify themselves and issue a verbal warning before using physical force or deadly physical force.
2. Verbal warnings need not be issued when the officer reasonably believes that doing so would increase the danger to the officer or another person.

D. Firearms Safety

1. All University Police officers shall adhere to firearms safety and range safety rules as per the attachment to this policy when applicable.

VIII. **DEFINITIONS**

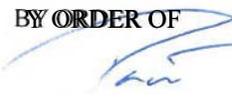
A. Physical Injury: means impairment of physical condition or substantial pain. New York Penal Law (NYPL), §10.00-9.

B. Serious Physical Injury: means 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. NYPL, § 10.00-10.

C. Deadly Physical Force: means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. NYPL, § 10.00-11.

D. Physical Force: means a level of force less than deadly physical force.

E. Reasonable Belief: The facts or circumstances the officer knows or should know are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

BY ORDER OF

PAUL FIELD
Chief of Police