

SUNY Broome Office of Public Safety

Written Directive. Standard Operating Procedure. Use of Force Policy

7.0 Use of Force

- I. Purpose - This policy is designed to provide guidance for SUNY Broome Community College Office of Public Safety Peace Officers on the use of deadly and non-lethal force. This policy will be read in conjunction with Departmental Policy, section 7.1 Firearms, and section 7.2 Patrol Rifles. The provisions in each of the policies shall be adhered to when considering the use of force, deadly or non-lethal.
- II. Policy – SUNY Broome Community College Office of Public Safety recognizes and respects the value of human life. In vesting Campus Peace Officers with the lawful authority to use force and to protect the campus community, a careful balancing of all human interests is required. Therefore, it is the policy of the Office of Public Safety, consistent with Article 35 of the New York State Penal Law, that Campus Peace Officers shall only use that force which is reasonably necessary to effectively bring the incident under control while protecting the physical wellbeing and the lives of the officers and others. Additionally, a Campus Peace Officer shall only use force when he/she reasonably believes that it is necessary to do so in order to bring the incident under control.
- III. Definitions
 - A. Reasonable Belief - Refers to the conclusion by an officer that a particular fact is true, based on all the attendant circumstances, prior training and experience of the officer. A reasonable belief is the judgment about a fact that would be arrived at by a person of ordinary intelligence and common morality, if such person had the same information, experience, and training as the officer making the judgment about the fact. A fact need not be ultimately true in order for an officer to reasonably believe it is true at the time judgment is made.
 - B. Imminent Danger – A situation where there is an immediate threat to life.
 - C. Significant Threat – A threat where there is a high probability or likelihood that adverse outcomes will happen.
 - D. Deadly Physical Force - Any use of force that is likely to cause death or serious physical injury.
 - E. 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.
 - F. Non-Lethal Force - Any use of force other than that which is considered deadly force.
- IV. Parameters for Use of Non-Lethal Force

- A. Where deadly force is not authorized, officers should assess the incident in order to determine which non-lethal technique or weapon will best de-escalate the incident and bring it under control in a safe manner.
- B. Peace Officers are authorized to use departmentally approved non-lethal force techniques and issued equipment consistent with Article 35 of the New York State Penal Law, for resolution of incidents, as follows.
 - 1. To protect themselves or others from physical harm; or
 - 2. To restrain or subdue a resistant individual; or
 - 3. To bring an unlawful situation safely and effectively under control.

V. Parameters for Use of Deadly Physical Force

- A. Campus Peace Officers are authorized to use deadly physical force pursuant to article 35 of the New York State Penal Law.
- B. Before discharging a firearm, Campus Peace Officers shall identify themselves and state their intent to shoot where feasible.
- C. The use of warning shots is strictly prohibited.

VI. Force Options

- A. Officers have several force options in response to resistance that will be dictated by the actions of the suspect. An officer's actions need not follow any sequential order when responding to the resistance being offered by the suspect. The level of response used by an officer may be equal to or greater than the level of resistance being offered by the suspect. Officers may be limited in their options due to the circumstances present at the time. The officer's response must be objectively reasonable in light of the circumstances. For example, an officer who immediately observes a subject with a firearm and threatening another may immediately respond with deadly force without considering other force options.
- B. Active Resistance by a suspect:
 - A. Once the suspect's active resistance has ceased and control has been gained, an officer is no longer authorized to use force.

VII. Use of Force Options

- A. **Command Presence:** Visual appearance of the officer where it is obvious to the subject due to the officer's uniform, badge and gun that the officer has the authority to enforce the law.
- B. **Verbal Commands:** Words spoken by the officer which are used to direct the subject as to the officer's expectations.
- C. **Soft Empty Hand Control:** Officer's use of hands on the subject to direct the subject's movement; Techniques that have a low potential of injury to the subject.
- D. **Chemical Spray:** Where subject exhibits some level of active resistance/active aggression, officers may use chemical spray to temporarily incapacitate the subject.
- E. **Conducted Energy Device (CED) or Taser:** Where subject exhibits some level of active resistance/active aggression, officers may use the CED to temporarily incapacitate the subject

- F. **Hard Hand Control:** Punches and other physical strikes, including knees, kicks and other strikes that have the possibility of creating mental stunning and/or motor dysfunction.
- G. **Impact Weapons:** ASP/Expandable baton may be utilized in cases where officers believe the use of such weapon would be reasonable to bring the event under control. In cases where other options have been used but have failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
- H. **Deadly Force:** Force that is likely to cause serious physical injury or death.

VIII.

Use of Force/ASP Collapsible Batons:

- A. Collapsible Batons may be utilized in cases where officers believe the use of these weapons would be reasonable to bring the event under control: Example would be where other options have been utilized but failed or where based on an officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
- B. Officers shall not intentionally strike a person in the head with a collapsible baton unless deadly physical force would be justified.
- C. Once the collapsible baton has been deployed, and there is no longer any resistance from the suspect, the officer is no longer justified in its use.
- D. Officers should immediately provide any necessary medical assistance to the degree that they are trained to do so or to contact emergency medical services for the treatment of the suspect which is beyond their scope of training.

IX.

Use of Force/ Chemical Spray:

- A. Chemical spray may be used in the following situations:
 - 1. Where verbal direction is ineffective or inappropriate; or
 - 2. Where passive resistance techniques have failed and officer must use force to maintain control; or
 - 3. When there is verbal non-compliance by the suspect and verbal non-compliance results in resistance to a lawful arrest.
 - 4. Where the use of force is authorized under Article 35 of the New York State Penal Law.
- B. Chemical spray may only be used as a control and compliance measure and shall not be used to intentionally inflict pain and discomfort or for any illicit unlawful purpose.
- C. Officers will only use that amount of spray which is reasonably necessary to achieve the desired effect.
- D. Officers should avoid using chemical spray in areas where such use could reasonably and foreseeably cause panic.
- E. **Primary Targets** when using Chemical Spray:
 - 1. Face
 - 2. Eyes
 - 3. Nose

4. Mouth

- F. Decontamination: After control of the suspect has been established and/or resistance has ceased, officers will take every reasonable effort to decontaminate the subject. Those reasonable efforts may include:
1. Removing the person from the sprayed area to fresh air or another ventilated area.
 2. Keeping the person calm by informing them of the anticipated effects of the spray.
 3. Instructing the person to blow his/her nose to remove the spray particles.
 4. Bringing the suspect to a water faucet (In garage located in the Service and Maintenance Building) to allow them to wash and flush their face and eye with clear cold water.
 5. If practical, allow the suspect to wash all effected and exposed areas with soap and water.
 6. If the suspect complains of injury, or if the officer reasonably believes that they are in need of medical attention, the officer shall immediately arrange for emergency medical services for the suspect.
- G. Whenever multiple officers are involved in a situation where chemical spray may be used, prior to the use of that spray, the applying officer shall alert other officers of its impending use before applying the spray, giving other officers a reasonable opportunity to disengage from the suspect.

X. Use of Force/Conducted Energy Device (CED) or Taser

- A. SUNY Broome has made available Tasers to Campus Peace Officers who choose to carry them as additional use-of-force options for gaining compliance of resistant or aggressive individuals in arrest and other enforcement situations. It is the policy of SUNY Broome Office of Public Safety that officers use CED when warranted, but only in accordance with the guidelines and procedures set forth here and in SUNY Broome's use-of-force policy. It is intended to temporarily incapacitate and permit control of a violent or potentially violent individual, or an individual demonstrating the intent to harm himself/herself, without causing serious injury. While it is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects, it is important to remember that the use of a Taser has the potential to result in serious injury or death. The use of the Taser must comply with other relevant department policies, including those involving use of force, and is a reportable use of force.
- B. An officer who has completed department approved training may be issued a Taser for use during his/her current assignment. An officer leaving a particular assignment may be expected to return his/her issued device to the department's inventory. Officers shall only use a Taser and cartridges that have been issued by the Department. The device will be carried in an approved holster, on the side opposite from the officer's duty weapon and with fully loaded Taser cartridges on his/her person at all times. Each officer is responsible for insuring that his/her issued Taser is properly maintained and in

good working order at all times. An officer should never hold both a firearm and the Taser at the same time unless deadly force is justified.

- C. Unless it would otherwise endanger safety or is impractical due to circumstances, an explicit verbal announcement of the intended use of the Taser shall precede the application of a Taser. If, after a verbal warning, an individual continues to express an unwillingness to voluntarily comply with an officer's lawful orders and it appears both reasonable and practical under the circumstances, the officer may, but is not required to, display the electrical arc (provided there is not a cartridge loaded into the Taser) or the aiming laser in a further attempt to gain compliance prior to the application of the Taser. The laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision. The fact that a verbal and/or other warning was given, or reasons it was not given, shall be documented in any related reports.
- D. The Taser should only be used when its operator can safely approach the subject within the operational range of the Taser. Although the Taser may be generally effective in subduing most individuals, officers should be prepared with other options in the event it is not effective. Because the application of the Taser in the "Drive Stun" mode (i.e., direct contact without probes) affects a smaller area of the body and requires close proximity to the subject, additional caution should be exercised and the controlling effects may be limited. Application of the Taser in the Drive Stun mode is effective as a method to complete the circuit when one of the probes fails to connect with the subject.
- E. Authorized personnel may use the Taser only when circumstances known to the individual officer at the time indicate that the application of the Taser is reasonable to subdue or control:
 - 1. a person who the officer reasonably believes creates an immediate, credible threat to the physical safety of himself/herself, the officer, or another person; or
 - 2. a person who engages in, or displays the intent to engage in, aggressive physical resistance to a lawful police action; or
 - 3. a person who has been placed under arrest or is so advised but engages in active physical resistance exceeding officers' ability to control him/her using strength or control holds. A Taser may be used to gain control of such a person in lieu of engaging in a struggle with him/her that would risk greater injury to the subject or officers than use of the Taser; or
 - 4. A person who flees from arrest for a crime for which a person would normally be taken into custody, in lieu of using another force option more likely to result in injury to the subject or officer, such as tackling or striking. The fact that a person is fleeing should not be the sole justification for use of a Taser. Officers should consider the severity of the offense, the threat the person poses to others, the person's history of violent behavior, what other options are available to apprehend the individual, and other relevant circumstances to determine whether the

use of a Taser is reasonable for the situation.

5. “Aggressive physical resistance” as used in this section means physical actions which attack or threaten to attack the officer, coupled with the ability to carry out the attack, which may result in physical injury.
- F. Even if authorized by 7.0 IV, the use of the Taser is restricted under the following circumstances:
1. The Taser should not be used against the individuals listed below, who may be more susceptible to injury, unless one of the listed exceptions exists.
 - a. Females who are known to be, or who obviously are, pregnant
 - b. Elderly individuals or young children (e.g., obviously less than 12 years of age)
 - c. Individuals who are known to be, or who obviously are, medically fragile
 - d. Individuals who have been recently sprayed with alcohol-based OC spray or who are otherwise in close proximity to, or contaminated with, flammable liquids or gasses
 - e. Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles, in or near a pool or body of water)Exceptions that would permit the use of the Taser in these circumstances are:
 - The person is armed with a dangerous weapon;
 - The person is engaging in suicidal behavior; or
 - The person cannot be safely controlled with other available force options.
 2. A Taser shall not be used at a demonstration or protest without authorization of the Chief of Public Safety or designee unless its use is reasonably necessary to prevent injury to the officer or another person.
 3. A Taser shall not be used against persons engaged only in verbal or passive resistance. For purposes of this policy, “passive resistance” means non-compliance with an officer’s orders unaccompanied by any active or physical resistance. A Taser may be used against an individual who has been advised that s/he is under arrest and who is resisting arrest by holding onto an object if the only other option(s) available to the officer to take the person into custody would likely result in significant injury to the person, an officer, or another person. In this circumstance, the Taser should be used in “drive stun” mode, and only to the extent required to have the person release his/her hold.
 4. A Taser shall not be used on individuals who are handcuffed or otherwise restrained, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion. Officers using the Taser on a restrained individual should consider using the Taser in “drive stun” mode and only to the extent required to gain control of the person.

5. Individuals suspected of being under the influence of drugs/alcohol or exhibiting symptoms of "excited delirium" (e.g. nudity, profuse sweating, irrational behavior) may be more susceptible to certain medical problems and should be closely monitored following the application of the Taser until they can be examined by paramedics or other medical personnel. Following use of a Taser, officers should use a restraint technique that does not impair respiration and will summon EMS to examine the individual as outlined in 7.0 X F.
 6. A Taser shall not be used as a prod or escort device, or to arouse unconscious, impaired, or intoxicated individuals.
 7. Officers should not intentionally aim for the head, neck, or groin.
 8. The Taser shall not be used punitively, or to harass or inflict undue pain on any individual.
 9. In the event other agencies are present at a scene communicate to prevent possible ignitability of OC spray used in conjunction with the Taser. If an agency's OC spray is ignitable or its ignitability is unknown, the Taser shall not be used.
- G. Multiple Taser activations or activations exceeding the standard five-second duration may increase the risk of injury or death and should be avoided when possible. If, after a single application of the Taser, an officer is still unable to gain control of an individual and circumstances allow, the officer should consider whether or not the Taser is making proper contact, whether the Taser is limiting the person's ability to comply, or if other tactics may be more appropriate or effective. After each application of the Taser, the officer should weigh the circumstances involved to determine whether an additional Taser discharge would be appropriate under provisions of this policy. When practical, officers should give a verbal warning prior to each activation.
- H. Only one officer at a time should discharge his/her Taser at a person. If more than one Taser is unholstered for potential use, officers should communicate with each other in order to prevent multiple discharges or a sympathetic discharge of additional Tasers. If practical, officers assisting a Taser operator will attempt to gain physical control of a subject while the Taser is being activated or immediately thereafter.
- I. The number of Taser applications should not exceed three. For purposes of this section, "application" means that the Taser probes or contacts appear to have effectively connected with the subject as intended. If officers have not achieved reasonable control of the person following three applications of the Taser, other options should be employed.
- J. All Taser discharges shall be documented in the related arrest/crime report and on a Use of Force form. Accidental discharges of a Taser cartridge will also be documented on the Taser report form. Any report documenting the discharge of a Taser cartridge will include the serial number(s) of the cartridge(s) used and an explanation of the circumstances surrounding the discharge. Specific details will be included articulating the rationale for Taser use when, during a given incident:
1. A Taser is applied more than once, or the Taser is applied for a total

- length of time exceeding 15 seconds, during an incident;
 2. More than one Taser is used against an individual; or
 3. The Taser report form will also be used to report a situation in which a verbal warning of potential Taser use was issued and compliance gained without an actual Taser discharge. The on-board Taser memory will be downloaded through the data port by the designated officer, and saved with the related arrest/crime report.
- K. If a person armed with a Taser or similar device uses or threatens to use the device against an officer, the officer or another officer may use reasonable force to defend the officer in order to avoid becoming incapacitated and risking the possibility that the person could gain control of the incapacitated officer's firearm.
- L. The Taser may be used to defend against an aggressive animal which poses a threat to the officer, another person, a police service dog, or an assistance animal, or which is attacking another animal.
- M. Any person who has been subjected to the electric discharge of a Taser and/or struck by Taser probes shall be treated for first aid and EMS contacted for further evaluation of the subject. As a first aid responder, the officer will assess the general condition of the suspect and examine the probe sites. Typical probe entry is superficial and officers may remove them in accordance with their training. When probe entry is determined to be more than superficial or when a suspect exhibits any other medical symptoms of concern, officers will wait for EMS arrival. EMS will be advised of the following factors:
1. the person is suspected of being under the influence of controlled substances and/or alcohol;
 2. the person is younger than 12 years of age, or older than 60 years of age;
 3. the person is known to be, or is obviously, pregnant;
 4. the person is known to be, or is obviously, medically fragile;
 5. the person is exhibiting symptoms of hyper stimulation or excited delirium;
 6. the person has received multiple Taser activations, or the combined length of Taser activations has exceeded 15 seconds;
 7. a Taser probe is lodged in a sensitive area (e.g., groin, female breast, near the eyes);
 8. the officer observes that the individual is experiencing any distress beyond what would normally be expected under the circumstances; or
 9. the person requests medical treatment or EMS response. Because the Taser causes a person to undergo involuntary muscle spasms, officers should also be aware of the possibility of injuries due to falls, or from sudden or excessive muscular tension.
- N. Prior to transitioning custody of a person who has received a Taser discharge to the Broome County Jail, a hospital, or other facility, officers will advise the appropriate receiving party of the Taser deployment and any aftercare provided.

- O. If the Taser probes have contacted the person's skin, or if the Taser has been used in drive stun mode against the person's skin, take color photographs of the locations where the device was applied, as well as any other injuries related to the incident. Consent should be obtained before photographing personally sensitive areas. If a person adamantly opposes photographs of a sensitive area, document the refusal in the report.
- P. In addition, Officers shall consider collecting the following as evidence; probes removed from the skin, probes missing contact with the skin, spent cartridges, blast doors, and wires. Probes which have penetrated the skin should be considered biohazards, and universal precautions used when handling them. At least three Anti-Felon Identification Tags (AFIDs) from each cartridge used will be collected and submitted as evidence.
- Q. Each report of use of a Taser will be reviewed by the Chief to determine whether the use was in compliance with department policy.
- R. In addition to the initial department approved training required to carry and use a Taser, personnel carrying the Taser must receive annual recertification. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Chief.

- XI Use of Firearms as a method of delivering Deadly Physical Force
 - A. The use of Department issued firearms as an instrument readily capable of producing serious physical injury or death is limited to those situations in which deadly physical force is justified under Article 35 of the New York State Penal Law. The use of firearms for this purpose is defined in Department Policy 7.0 V of this manual.
 - B. The use of warning shots is strictly prohibited

- XII Reporting Requirements regarding the use of physical force (Less than deadly physical force)
 - A. Upon first learning that a use of physical force has occurred, an initial inquiry into possible injuries to the officer and any other involved person must be made, as well as arranging for treatment and documentation of these injuries. In addition to a detailed report of the incident, a Use of Force form must be completed.
 - B. Arrangements must be made for a thorough report to be completed, witnesses to be identified and statements taken
 - C. Upon receipt of the report, the Chief of Public Safety or his/her designee will conduct an Administrative Review regarding the matter.
 - D. Officers will complete a Use of Force form as part of the incident report.

- XIII Reporting Requirements Regarding the Use of Deadly Physical Force
 - A. When an officer discharges a firearm, on or off duty, other than for lawful hunting or sporting purposes, or to destroy an animal as authorized by Sections 7.1 (VI.B) of the Department manual, the officer will notify the Supervising Campus Peace Officer and will prepare or assist in the preparation of reports as required. In cases where the discharge was made for the purpose of destroying a sick or injured animal, the report can be a

basic narrative on an incident report and direct, concurrent notification of the Supervising Campus Peace Officer is required.

- B. Officers will complete a Use of Force Form as part of the Incident Report.
- C. If the discharge was directed at a person or unauthorized target, the Chief or his/her designee will be notified as soon as is practical.
- D. The Chief of Public Safety or his/her designee will initiate an investigation when appropriate. The Supervising Campus Peace Officer is responsible for ensuring that the officer involved in the deadly physical force incident receives medical attention if required, privacy from inquiries from the public and other members not involved in the actual investigation, and assistance in performing routine tasks. The involved officer should not be sequestered alone. An attendant to the officer should be designated to stay with him or her.
- E. Unless there is some compelling reason for relieving the officer of his or her weapon(s) immediately, an involved officer will not be disarmed at the scene. At a time and place removed from the scene of the incident, the officer's weapon will be secured as evidence. The Chief or his/her designee will replace the weapon as appropriate.
- F. As soon as is practical, the Broome County Sheriff's Office is to be notified and advised of the incident.
- G. In any instance when a member of the department uses physical force which results in serious physical injury, as defined in this policy, or a death of another, the officer will be reassigned from regular duties pending a documented administrative review of the matter.

XIV

Annual Use of Force Training

- A. The Office of Public Safety will, on an annual basis provide each member of the department with in service training on this use of force policy.