

# **Pulaski Police Department Use of Force Policy**

## **Effective January 11, 2021**

I. **PURPOSE:** Law enforcement officers around the country and here in New York State are authorized to use reasonable and legitimate force in specific circumstances. Federal constitutional and state statutory standards dictate when and how much force can be used. This policy is founded in these standards but is not intended to be an exhaustive recitation of state and/or federal legal framework governing use of force. The policy is designed to provide guidance to use of force policies in accordance with Executive Law §840(4)(d)(3). This policy is not intended to endorse or prohibit any tactic, technique, or method of employing force. Separate policy guidance and training should be provided for each of the available force instrumentalities made available to officers.

II. **POLICY :** The federal and state standards by which use of force is measured are both founded in the basic premise of objective reasonableness.<sup>1</sup> The amount of force that is used by the officers shall be the amount of force that is objectively reasonable under the circumstances for the officer involved to effect an arrest, prevent an escape, or in defense of themselves or others. The standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor*, is used in this policy and is intended to provide officers with guidelines for the use of force, including deadly physical force. As the Supreme Court has recognized, this reasonableness inquiry embodies “allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving — about the amount of force that is necessary in a particular situation.”<sup>2</sup> This policy is written in recognition of the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires a careful balancing of all interests

### **III. DEFINITIONS**

A. 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 that the force was used.

B. 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.

C. Physical Injury – Impairment of physical condition or substantial pain.

D. 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.

#### **IV. USE OF FORCE**

A. In general terms, force is authorized to be used when reasonably believed to be necessary to effect a lawful arrest or detention, prevent the escape of a person from custody, or in defense of one's self or another.

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.

#### **V. DETERMINING THE OBJECTIVE REASONABLENESS OF FORCE**

A. When used, force should be only that which is objectively reasonable given the circumstances perceived by the officer at the time of the event.

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

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;
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.

#### **VI. DUTY TO INTERVENE**

A. Any officer present and observing another officer using force that he/she reasonably believes 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.

B. An officer who observes another officer use force that exceeds the degree of force as described in subdivision A of this section should promptly report these observations to a supervisor.

## VII. USE OF DEADLY PHYSICAL FORCE

A. Deadly physical force may be used by an officer to protect themselves or another person from what the officer reasonably believes is an imminent threat of serious physical injury or death.

B. Deadly physical force may be used to stop a fleeing suspect where:

1. 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,

2. The officer reasonably believes that the suspect poses an imminent threat of serious physical injury to the officer or to others.

3. Where feasible, some warning should be given prior to the use of deadly physical force.

C. Chokeholds, obstructing breathing and/or carotid restraints are considered deadly physical force. This applies to any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing, reduce the intake of air or obstruct blood circulation **(they have further been outlawed by NYS. PL 121.13—a Aggravated strangulation A person is guilty of aggravated strangulation when, being a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law or a peace officer as defined in section 2.10 of the criminal procedure law, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven-t of the executive law, and thereby causes serious physical injury or death to another person).**

## VIII. PROHIBITED USES OF FORCE

A. Force shall not be used by an officer for the following reasons:

1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;

2. To coerce a confession from a subject in custody;

3. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing in lieu of a court order where required;

4. 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.

## **IX. REPORTING & REVIEWING THE USE OF FORCE**

A. Any injuries resulting from a use of force incident shall result in the appropriate and timely medical attention being provided to the injured party.

B. Members involved in use of force incidents as described below shall notify their supervisor as soon as practicable and shall complete a departmental use of force report.

1. Use of force that results in a physical injury.

2. Use of force incidents that a reasonable person would believe is likely to cause an injury.

3. Incidents that result in a complaint of pain from the suspect except complaints of minor discomfort from compliant handcuffing.

4. Incidents where a conducted energy device (CED) was intentionally discharged or accidentally discharged after being displayed.

5. Incidents where a firearm was discharged at a subject.

C. A standardized use of force form should be used to document any reportable use of force incident.

## **X. PROCEDURES FOR INVESTIGATING USE OF FORCE INCIDENTS**

A. Where practicable, a supervisor should respond to the scene to begin the preliminary force investigation.

B. A supervisor that is made aware of a force incident shall ensure the completion of a use of force report by all officers engaging in reportable use of force and, to the extent practical, make a record of all officer's present.

C. Photographs should be taken which sufficiently document any injuries or lack thereof to officers or suspects.

D. The [applicable person, unit, or bureau] will receive the supervisor's report and conduct an investigation.

E. Consistent with agency disciplinary protocols and any applicable collective bargaining agreements, agency policy should establish standards for addressing the failure to adhere to use of force guidelines.

## **XI. 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.

## **XII. REPORTING:**

**New York State requires that department completes Use of Force Reporting form in according to executive law §840(4)(d)(3).**

**All Officers will document the following on Subject Management Form**

- 1. Incident Number**
- 2. Incident Date**
- 3. Incident location**
- 4. Circumstance: Response to unlawful or suspicious activity, executing arrest, routine patrol, traffic stop, follow up investigation, demonstration, Medical, Mental Health, other**
- 5. Subjects: Age, Sex, Race, Ethnicity**
- 6. Officer's Age: Sex: Race: Ethnicity: Select all that apply**  
**Type of Use of Force: Displayed a Chemical Agent Used/Deployed a Chemical Agent, Brandished/Used/Discharged a Firearm**  
**Brandished/Used/Deployed an Impact Weapon or Electronic Control Weapon Used a Chokehold or Other Similar Restrain**

**Definitions for the types of force used by law enforcement that are required to be reported to the Division of Criminal Justice Services:**

**Display a chemical agent** - to point a chemical agent at a subject.

**Use/Deploy a chemical agent** - the operation of the chemical against a person in a manner capable of causing physical injury.

**Brandishes/Uses/Discharges a firearm** - the operation of a firearm against a person in a manner capable of causing physical injury.

**Brandishes/Uses/Deploys 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.

**Uses a chokehold or other similar restraint** - any application of sustained pressure to the throat or windpipe of a person in a manner that may hinder

breathing or reduce intake of air.

**Conduct that resulted in death**

**Serious Bodily Injury** - bodily injury that creates or causes:

- a substantial risk of death; or
- unconsciousness; or
- serious and protracted disfigurement; or
- protracted loss or impairment of the function of any bodily member, organ or mental faculty.

1. **Police Baton** -The agency-approved police baton may be used in conformity with accepted principles of less than deadly force, as specified in Article 35 of the New York State Penal Law. The police baton may be used to overcome resistance to a lawful order or apprehension.

1. Acceptable police batons – ASP collapsible baton, standard straight baton.
2. Use - The police baton shall be used in accordance with instruction provided at the police academy or provided in-service instruction.
3. Personnel shall carry the police baton at their option, situation demanding.

2. **Unauthorized Non-Lethal Weapons** – Blackjacks, slapjacks, sap gloves, or other similar types of weapons are not permitted to be carried by any member on his person or in agency vehicles.

3. **Chemical Agents** – The use of chemical agents shall not be permitted by members who have not received agency-approved training. Agency members will be authorized to use only the approved Oleoresin Capsicum Aerosol spray issued by the agency. Emergency Services Unit members and Corrections personnel who have received specialized training in the use of other chemical agents may use these as deemed necessary for a situation and with permission of the Sheriff or his designee.

- a. The agency approved O.C. product is Vexor. Authorized members will be trained and must successfully complete the agency approved O.C. training program prior to being issued O.C.
- b. O.C. may be used in situations:
  1. Where verbal direction is ineffective or inappropriate.
  2. Where passive resistance techniques have failed, and officers may have to use physical force to maintain control.
  3. Situations where greater uses of force are authorized by Article 35 of the New York State Penal Law.

- c. Members should avoid the use of O.C. in areas where the use of O.C. could reasonably and foreseeable cause panic.
- d. O.C. will only be used as a control and compliance measure and shall never be used for any illicit, unlawful, purpose. The use of O.C. shall be consistent with any applicable state or federal law, the guidelines of the agency's use of force policy, and the manufacturer's specific guidelines for use.
- e. Members should only use the amount of O.C. reasonably needed to achieve the desired effects. Once the desired effects are achieved, the officer shall discontinue usage.
- f. Primary O.C. application targets include:
  - 1. Face
  - 2. Eyes
  - 3. Nose
  - 4. Mouth

Intentionally spraying a person's groin area with O.C. is not permitted except in a confrontation where deadly force would be justified. Officers may spray a combative, restrained/handcuffed prisoner only when other available means of control have been exhausted or would clearly be ineffective.

- g. Officers shall not engage in horseplay with O.C. or any other agency-issued device/substance/equipment. Officers shall take all precautions to prevent the situation where any person sprayed with O.C. causes injury due to incapacitation from the application.
- h. O.C. Decontamination Procedures - After control has been established and/or resistance has ceased, the officer will make reasonable efforts to allow the O.C.-affected subject relief from the discomfort associated with the application of O.C.
  - 1. Reasonable decontamination efforts may include:
    - a. Removing the affected person from the spray area to an area of fresh air or providing some other form of ventilation.
    - b. Keeping the affected person calm by calmly informing the person of the anticipated effects of O.C. exposure.
    - c. Instructing the affected person to blow his/her nose to remove lodged O.C. particles.

- d. If the person is not breathing, give (if trained) artificial respiration.
  - e. If the affected person is having difficulty breathing, arrange for the affected person to be given oxygen.
  - f. Allowing the person to flush the affected area with saline solution or clear water if available to relieve the inflammation to the eyes and skin.
  - g. If practical, the affected subject should be allowed to wash all exposed skin areas with soap and water.
  - h. Arrange for professional medical attention (EMT, doctor, nurse, etc.) if the person complains of injury or the officer reasonably believes that the person needs medical attention.
2. Allow the affected person to wash affected clothing (if practicable to do so).
  3. Do not apply salve on the affected areas following exposure.
- i. **Medical Treatment – Symptoms of O.C. exposure should disappear within fifteen (15) to forty-five (45) minutes with no severe aftereffects. If symptoms, other than mild aftereffects, persist beyond the normal recovery period without significant relief to the eyes, skin, and respiratory system, the officer should arrange for prompt medical attention. Officers will not withhold medical attention from the person whether requested or not, if the officer reasonably believes the affected person is in need of such attention.**
- j. Documentation – On each occasion of O.C. use, including canister display only, written reports shall be timely completed and shall include:
1. Date and time of O.C. use
  2. A list of all participants, including supervising officers and Witnesses to the incident.
  3. An accounting of the events leading to the use of the O.C.
  4. A description of the incident and the reasons for using O.C.
  5. A description of any injuries suffered, and treatment given and/or received.



- k. Other Considerations – Whenever multiple officers are involved in a situation where O.C. may be used, prior to use of the O.C., the applying officer shall notify all officers of the impending use by using the code word, “Pepper,” before applying and giving reasonable time for the other officers to disengage from the subject.
3. Guidelines for an Officer attacked with O.C. – When an officer is confronted by an attacker/suspect threatening the use of O.C., the officer shall make reasonable efforts to minimize the amount of self-defense force applied. The officer shall consider the following:
  1. The officer should avoid being sprayed with the O.C. due to the fact that he may be disarmed, killed, or seriously injured by the person if the application is successful.
  2. The officer can reasonably retreat safely to a distance outside the Foreseeable range of the O.C. (minimum 25 feet) provided the retreat does not create substantial risk of harm/injury to others.
4. If the officer, confronted by a suspect with O.C., cannot reasonably and safely retreat from the scene, or if there are not sufficient backup officers to prevent injury to the initial officer, the officer may use reasonable force against the O.C. attacker.

## **X-2 Taser**

### **I Purpose:**

The purpose of this policy is to provide members of the Pulaski Police Department with guidelines for the deployment of the X-2 Taser electronic control device.

### **II Policy:**

The policy of the Pulaski Police Department is to provide officers with options for dealing with combative or uncooperative subjects in a manner that minimizes the risk of injury to officers and resistive subjects. The X2 Taser is a proven device for controlling combative and uncooperative subjects with a minimal risk of injury. The X2 Taser is deployed as an additional police tool and is not intended to replace the firearm or self-defense techniques. The X2 Taser falls into the category of less lethal force and is intended to supplement other weapons in this category.

### **III. Definitions:**

X2 Tasers are weapons that conduct electrical energy to a target thereby controlling and overriding the central nervous system of the body of the target subject. They are designed to safely incapacitate a potentially dangerous person by using compressed nitrogen to

project two probes a maximum of 21 feet. An electrical signal is then sent to the probes via small wires, which disrupt the body's ability to communicate messages from the brain to the muscles and cause motor skill dysfunction or acting as a touch stun gun system when brought into immediate contact with a person's body.

Taser Instructor - is a member qualified by Taser International to certify users of the X2 Taser.

Electro-muscular disruption (EMD) - is a device designed to temporarily incapacitate a subject by delivering electrical pulses to the person. The electrical pulses are intended to completely override the central nervous system and directly control the skeletal muscles. The EMD effect is intended to cause uncontrollable contraction of the muscle tissue, physically debilitating the target subject regardless of pain tolerance or mental focus.

Authorized User - Member members of the Pulaski Police Department that have successfully completed the Taser training program.

#### **IV. Procedure**

The X2 Taser will only be issued and used by officers who have successfully completed the Agency's Taser training program or who have completed the Taser International instructor certification course.

The Taser shall be carried fully armed with the safety on in preparation for immediate use when authorized.

Authorized officers will be issued one spare cartridge. The spare cartridge shall be carried in a manner consistent with training and the manufacturer's requirements.

There will be one X2 Taser with one spare cartridge and holster stored at Pulaski PD. This Taser is available to authorized users on a sign out basis. A sign out log will be kept in dispatch. Shift supervisors will ensure the sign out log is kept and the Taser assigned to the station is returned at the end of each patrol shift.

The X2 Taser is considered to be a less lethal force option, which is on the same level as chemicals in the force continuum. The X2 Taser is used for controlling subjects who are either actively or defensively resisting and to protect a subject when that person is attempting to harm themselves or commit suicide.

Officers issued the X2 Taser are responsible for ensuring the device is fully functional at all times. This will include ensuring the unit is fully charged, the air cartridge is not expired, and all components are fully operational by conducting a spark test prior to each shift. The spark test will be performed in the following manner:

1. Locate an area free of persons in the event of unintentional cartridge deployment.
2. Ensure the safety switch is down (safe) position.

3. Remove the air cartridge.
4. Point the X2 in a safe direction and place the safety switch to the fire position. Check the remaining battery life percentage on the Central information display. Replace the digital power magazine (battery) if the percentage is less than 29%
5. Pull the trigger and perform a spark test for one second. Check for visible spark between the electrodes, and a rapid spark rate. There must be a full 5 second spark test prior to you shift.
6. Place the safety switch in the down (safe) position.
7. Replace the air cartridge.
8. If the spark test is not acceptable, notify a Taser instructor as soon as practical.

Simply displaying the Taser shall not constitute a use of the device. However, the officer will document the circumstances surrounding the display of the Taser in a standard incident report.

Any actual deployment of the Taser will necessitate a completion of a subject management form as well as a standard incident report.

## **V. Deployment**

The Taser is considered to be on the same level as O.C. spray on the use of force continuum and decisions to deploy the Taser require the same level of justification.

The X2 Taser can be used at distance up to 25 feet, however the optimum distance is 7 to 15 feet. The device is equipped with both laser and fixed sights. The top probe will drop at an 8-degree angle, sloping approximately one foot for every 7 feet of travel.

The device should be aimed at the center of mass of the intended target. The device should not be intentionally aimed at the face, neck or groin area.

When feasible and appropriate the target individual should be warned that they will receive a Taser deployment, and just prior to the deployment, the officer shall state Taser to alert other officers.

The X2 Taser is programmed to give a 5 second burst. Officers will allow the Taser to cycle for a full 5 seconds, evaluate the subject's response, continue with verbal commands, then decide if another 5 second burst is required. Additional 5-second bursts can be administered by pulling the trigger if the subject is not controlled by the initial burst.

The X2 Taser can be used as a contact device either with or without the air cartridge installed.

The subject should be secured as soon as practical while disabled by the Taser power to minimize the number of deployment cycles.

Backup officers should accompany the Taser officer and will be designated as contact and cover.

The Taser is not a replacement for the firearm and should not be used without firearm backup in those incidents where there is potential deadly physical force threat towards the officers, or third parties involved in the incident.

The X2 Taser may also be used as a drive stun for pain compliance. To maximize the effectiveness of the drive stun mode, the officer should aggressively drive the X2 Taser into the subject's pressure points while issuing verbal commands. When used in the drive stun mode, the head, neck and groin area shall not be deliberately targeted.

## **VI. Precautions**

**The X2 Taser should not intentionally be deployed in the following circumstances:**

1. On a known pregnant person.
2. On subjects who have come in contact with flammable liquids.
3. When there is a danger of a secondary fall from an elevated position, i.e. roof ledges.
4. The Taser will never be used punitively or for the purpose of coercion.

## **VII. Post Deployment**

The target subject should be restrained as soon as possible following the deployment of the X2 Taser.

**The Chief shall be notified as soon as practical following the Taser deployment.**

**An EMS unit will be dispatched to the scene following deployment of the Taser. The subject will be evaluated by medical personnel who will determine if the person should be transported to a medical facility for additional treatment.**

Qualified medical personnel will remove any probes that have penetrated the subject.

All deployed air cartridges; probes and several AFI tags will be collected and secured into evidence.

Downloading a Taser data port report and attaching it to the subject management form will only be completed if a complaint is generated by or as requested by the chain of command.

Deployment of the X2 Taser must be documented by an incident report and subject management form.

Included in the subject management form will be the point of aim, the point of contact made by the Taser and or probes upon the subject, whether penetrated of the skin was made, and any medical attention that was provided.

### **NEW YORK STATE ARTICLE 35**

**S 35.00 Justification; a defense.** In any prosecution for an offense, justification, as defined in sections 35.05 through 35.30, is a defense. **S 35.05 Justification; generally.** Unless otherwise limited by the ensuing provisions of this article defining justifiable use of physical force, conduct which would otherwise constitute an offense is justifiable and not criminal when: 1. Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his official powers, duties or functions; or 2. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue. The necessity and justifiability of such conduct may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this subdivision is offered by the defendant, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a defense.

**S 35.10 Justification; use of physical force generally.** The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances: 1. A parent, guardian or other person entrusted with the care and supervision of a person under the age of twenty-one or an incompetent person, and a teacher or other person entrusted with the care and supervision of a person under the age of twenty-one for a special purpose, may use physical force, but not deadly physical force, upon such person when and to the extent that he reasonably believes it necessary to maintain discipline or to promote the welfare of such person. 2. A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use such physical force as is authorized by the correction law. 3. A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use physical force when and to the extent that he reasonably believes it necessary to maintain order, but he may use deadly physical force only when he reasonably believes it necessary to prevent death or serious physical injury. 4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon such person to the extent that he reasonably believes it necessary to thwart such result. 5. A duly licensed physician, or a person acting under a physician's direction, may use physical force for the purpose of administering a recognized form of treatment which he or she reasonably believes to be adapted to promoting the physical or mental health of the patient if (a) the treatment is administered with the consent of the patient or, if the patient is under the age of eighteen years or an incompetent person, with the consent of the parent, guardian or other person entrusted with the patient's care

and supervision, or (b) the treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent. 6. A person may, pursuant to the ensuing provisions of this article, use physical force upon another person in self-defense or defense of a third person, or in defense of premises, or in order to prevent larceny of or criminal mischief to property, or in order to effect an arrest or prevent an escape from custody. Whenever a person is authorized by any such provision to use deadly physical force in any given circumstance, nothing contained in any other such provision may be deemed to negate or qualify such authorization.

**S 35.15 Justification; use of physical force in defense of a person.** 1. A person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless: (a) The latter's conduct was provoked by the actor with intent to cause physical injury to another person; or (b) The actor was the initial aggressor; except that in such case the use of physical force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force; or (c) The physical force involved is the product of a combat by agreement not specifically authorized by law. 2. A person may not use deadly physical force upon another person under circumstances specified in subdivision one unless: (a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is: (i) in his or her dwelling and not the initial aggressor; or (ii) a police officer or peace officer or a person assisting a police officer or a peace officer at the latter's direction, acting pursuant to section 35.30; or (b) He or she reasonably believes that such other person is committing or attempting to commit a [kidnapping](#), [forcible rape](#), [forcible criminal sexual act](#) or [robbery](#); or (c) He or she reasonably believes that such other person is committing or attempting to commit a [burglary](#), and the circumstances are such that the use of deadly physical force is authorized by subdivision three of section 35.20.

**S 35.20 Justification; use of physical force in defense of premises and in defense of a person in the course of burglary.** 1. Any person may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a crime involving damage to premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force if he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of [arson](#). 2. A person in possession or control of any premises, or a person licensed or privileged to be thereon or therein, may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted

commission by such other person of a criminal trespass upon such premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force in order to prevent or terminate the commission or attempted commission of arson, as prescribed in subdivision one, or in the course of a burglary or attempted burglary, as prescribed in subdivision three. 3. A person in possession or control of, or licensed or privileged to be in, a dwelling or an occupied building, who reasonably believes that another person is committing or attempting to commit a burglary of such dwelling or building, may use deadly physical force upon such other person when he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of such burglary. 4. As used in this section, the following terms have the following meanings: (a) The terms "premises," "building" and "dwelling" have the meanings prescribed in section [140.00](#); (b) Persons "licensed or privileged" to be in buildings or upon other premises include, but are not limited to: (i) police officers or peace officers acting in the performance of their duties; and (ii) security personnel or employees of nuclear powered electric generating facilities located within the state who are employed as part of any security plan approved by the federal operating license agencies acting in the performance of their duties at such generating facilities. For purposes of this subparagraph, the term "nuclear powered electric generating facility" shall mean a facility that generates electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located and the safety and security zones as defined under federal regulations.

**S 35.25 Justification; use of physical force to prevent or terminate larceny or criminal mischief.** A person may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of larceny or of criminal mischief with respect to property other than premises.

**S 35.27 Justification; use of physical force in resisting arrest prohibited.** A person may not use physical force to resist an arrest, whether authorized or unauthorized, which is being effected or attempted by a police officer or peace officer when it would reasonably appear that the latter is a police officer or peace officer.

**S 35.30 Justification; use of physical force in making an arrest or in preventing an escape.**  
1. A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he or she reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of physical force; except that deadly physical force may be used for such purposes only when he or she reasonably believes that: (a) The offense committed by such person was: (i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or (ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a

crime; or (b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or (c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force. 2. The fact that a police officer or a peace officer is justified in using deadly physical force under circumstances prescribed in paragraphs (a) and (b) of subdivision one does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he or she is not seeking to arrest or retain in custody. 3. A person who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that he or she reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless he or she knows that the arrest or prospective arrest is not or was not authorized and may use deadly physical force under such circumstances when: (a) He or she reasonably believes such to be necessary for self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or (b) He or she is directed or authorized by such police officer or peace officer to use deadly physical force unless he or she knows that the police officer or peace officer is not authorized to use deadly physical force under the circumstances. 4. A private person acting on his or her own account may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to: (a) Defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or (b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom. 5. A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, as that term is defined in section 205.00, or while in transit to or from a detention facility, may use physical force when and to the extent that he or she reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or therefrom.



**Pulaski Police Department**  
**Subject Management Form**

**ON DUTY**

**Complaint #** \_\_\_\_\_

**OFF DUTY**

**Date:** \_\_\_\_\_

**Officer Involved:** \_\_\_\_\_ **Badge #:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_

**Location of Incident:** \_\_\_\_\_

**Subjects Name Force Used on:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Subjects Age:** \_\_\_\_\_ **DOB** \_\_\_\_\_ **Sex** \_\_\_\_\_ **Height** \_\_\_\_\_ **Weight** \_\_\_\_\_

**Race** \_\_\_\_\_ **Ethnicity:** \_\_\_\_\_

**Officers Age:** \_\_\_\_\_ **Sex:** \_\_\_\_\_ **Race:** \_\_\_\_\_ **Ethnicity:** \_\_\_\_\_

**Type of Force Used:** \_\_\_\_\_

**Charge: Section:** \_\_\_\_\_ **Name:** \_\_\_\_\_

**Circumstance for Use of Force:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**To what extent was force USED:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Was the Subject handcuffed: Yes/No Describe:** \_\_\_\_\_

**Was Subject Injured: YES/NO Describe:** \_\_\_\_\_

**Was Medical treatment provided: YES/ NO Ambulance notified: YES/NO**

**Were Subject injuries prior to use of force: YES/NO Describe:** \_\_\_\_\_

**Was Officer Injured: YES/NO Describe:** \_\_\_\_\_

**Did Officer receive Medical Treatment YES/NO Ambulance Notified: YES/NO**

Other Arrests made: YES/NO Subject name: \_\_\_\_\_

Charges: \_\_\_\_\_

**Witnesses, Include officers at scene:**

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Relationship: \_\_\_\_\_

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Relationship: \_\_\_\_\_

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Relationship: \_\_\_\_\_

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Relationship: \_\_\_\_\_

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Officer signature

Date

Supervisor signature

Date

Chief Notified: YES/NO Date: \_\_\_\_\_ Time: \_\_\_\_\_

If NO: Reason \_\_\_\_\_

**I acknowledge receipt of the use of Force policy of the Pulaski Police Department dated June 4, 2020**

**Officer** \_\_\_\_\_

**Badge** \_\_\_\_\_ **Date** \_\_\_\_\_

**Chief** \_\_\_\_\_

**Date** \_\_\_\_\_

**Pulaski Police Department**

**4917 N Jefferson St.**

**Pulaski, NY 13142**