


WEARE POLICE DEPARTMENT 144 North Stark Highway, Weare, New Hampshire 03281		OPR-21-001	
	Law Enforcement Authority	Prescribed Date	03/30/2021
	Operational General Order	Review Date	Annual
	OPR-21-001:Use of Force		
This written directive is for the internal governance of the Weare Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.		<i>Christopher D. Moore</i> Christopher D. Moore Chief of Police	

Purpose

The purpose of this policy is to provide law enforcement officers with guidelines for the use of less-lethal and deadly force.

Policy

It is the policy of the Weare Police Department to value and preserve human life. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.

The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”

In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”ⁱ

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification without unnecessary delay.

Supersedes

1. SOP-014-005 Use of Force: Report and Review (Revised Date 08/21/2018)
2. SOP-014-006 Use of Force: Training and Qualifications (Revised Date 08/21/2018)
3. SOP-014-007 Use of Force: When Force Must Cease (Implement Date 12/01/14)
4. POL-014-003 Use of Force: Use of Deadly Force
5. POL-014-004 Use of Force: Use of Less Lethal Force (Implement Date 12/01/14)
6. POL-014-005 Use of Force: Use of Force: Use of Deadly Force Limitations (Revised 10/28/15)
7. POL-014-006 Use of Force: Use of Force Definitions (Implement Date 12/01/2014)
8. POL-014-007 Use of Force: Use of Force to Accomplish Lawful Objectives (Implement Date 12/01/2014)
9. POL-014-011 Use of Force: Medical Aid (Revised Date 10/28/15)

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Procedures

I. DEFINITIONS

Choke Hold: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

Deadly Force: Any use of force that creates a substantial risk of causing death or serious bodily injury.

De-Escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Excited Delirium: A constellation of symptoms related to an acutely delirious or agitated state with varied causes such as mental illness or substance abuse. Any or all of the following symptoms may be observed: bizarre, purposeless or violent behavior; attraction to glass and other inanimate objects; hyperactivity; incoherent shouting, screaming, or animal like noises; failure to recognize police presence; extreme aggression or paranoia. On direct physical contact, the officer may note any or all of the following: extreme strength; impervious to pain including injuries sustained during violent outburst; no response to an Electronic Control Weapon (ECW) or alternative restraint methods; effective resistance against multiple officers; very hot skin; sweating profusely or skin extremely dry for level of exertion. Due to unpredictable mental and physical conditions which may complicate their responsiveness to an ECW, persons exhibiting such symptoms who have been given an ECW application will be treated as a medical emergency.

Exigent Circumstances: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.ⁱⁱ

Less-Lethal Force: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

Objectively Reasonable: The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

Positional Asphyxia: A form of mechanical asphyxia that occurs when a person is immobilized in a position which impairs adequate pulmonary ventilation and thus, results in a respiratory failure. It is a medical emergency which can become life threatening.

Resistance, Active: Physically evasive movements to defeat an officer's attempt to control, such as, bracing, tensing, attempts to push/pull away or not allowing the officer to get close. This can include serious verbal threats implying harm if the officer attempts restraint procedures. The officer will consider the suspect's ability and intent to resist when utilizing objectively reasonable force to control the suspect.

Resistance, Aggravated: A subject makes overt, hostile attacking movements with or without a weapon with the intent and apparent ability to cause death or great bodily harm to the officer or others.

Resistance, Aggressive: A subject makes overt hostile attacking movements which may cause injury but are not likely to cause death or great bodily harm to the officer or others.

Resistance, Passive: A subject physically refuses to comply or respond without attempting to physically defeat the officer's actions but forcing the officer to employ physical maneuvers to establish control.

Serious Bodily Injury: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

Vascular Neck Restraint: A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

Warning Shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

II. GENERAL PROVISIONS

A. Determining Objectively Reasonable Force: There are several factors to consider when determining what actions are objectively reasonable in light of the facts and circumstances presented to the officer. Individual officer's perception of the threat is one of several determining factors that will be used to determine the reasonableness of force. The totality of circumstances and/or any of the below factors, will be considered:

1. The severity of the crime at issue.
2. The level of threat or resistance presented by the subject.
3. Whether the subject was posing an immediate threat to officers or danger to the community.
4. The potential for injury to citizens, officers, or subjects.
5. The risk or apparent attempt by the subject to escape.
6. The conduct of the subject being confronted.
7. The time available to an officer to make a decision.

8. The availability of other resources.
 9. The training and experience of the officer.
 10. The proximity or access of weapons to the subject.
 11. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects.
 12. The environmental factors and/or other exigent circumstances.
- B. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others.
1. Officers may use only authorized weapons and equipment in conformance with the policies set forth in this order, consistent with training provided or approved by the Weare Police Department and in compliance with orders and policy. Use of weapons not issued by the Department or authorized by the Chief of Police is strictly prohibited other than the circumstances involving the use of deadly force.
 2. Police personnel may use whatever means, methods, instruments, or techniques which are immediately available in any instance in which the use of deadly force is authorized.
- C. Officers will not use any weapon or object to intentionally strike another in the head, face, neck, throat, or to choke a suspect, under any circumstances other than those involving the use of deadly force.
- D. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- E. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. Officers will use that level of force that policy, training, and their experience, prescribes to be objectively reasonable. In these situations, only the minimal amount of force necessary to control the situation shall be used.
- F. Officers are prohibited from maintaining an individual in a position which could contribute to the individual suffering from positional asphyxiation.
1. Officers must monitor and recognize the circumstance, risk factors and warning signs of an individual suffering from positional asphyxiation or excited delirium.
 2. Officers must take immediate action to relieve factors within their control contributing to positional asphyxiation or excited delirium.
 3. If an individual is or has suffered from positional asphyxiation or excited delirium, the officer will request emergency medical services.
- G. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, been rendered unconscious, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
1. When in doubt about the medical condition of a person, the officer will request emergency medical services for evaluation.

2. If subject requests medical attention, regardless of the passage of time, the officer shall request emergency medical services immediately.
 3. Under no circumstance should an officer make any commitment to a person or medical care provider regarding the payment of treatment expenses. This excludes injured police personnel requiring medical treatment.
 4. Officers should consider the medical condition and/or any resistance being used against the injured person before using restraining devices such as handcuffs. In instances where the use of restraining devices would not be appropriate, the arresting officer shall;
 - a. obtain the approval from a supervisor to not use restraining devices and,
 - b. remain in control of the injured person while in the officers custody at all times.
 5. In any instance that a person is injured by a Weare Police Officer's use of force or action, the Chief of Police shall be notified as soon as practical via the officers chain of command.
- H. Once the scene is safe and as soon as practical, an officer shall make verbal notification to their supervisor whenever force is used in the performance of an official police duty, or when exercising their law enforcement authority. This applies to all force, weapons, less than lethal or weaponless physical force. Such notification is required whether the officer is on or off duty. In situations where an officer takes action that involves the use of force in another jurisdiction, the officer will immediately notify the appropriate law enforcement agency in that jurisdiction and contact an on-duty supervisor in this department as soon as practical.
- I. An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so. Additionally, it shall be the duty of any law enforcement officer who observes misconduct by another law enforcement officer to notify the Chief of Police in writing immediately or as soon as practical after observing such misconduct. For the purpose of this section, "misconduct" means assault, sexual assault, bribery, fraud, theft, tampering with evidence, tampering with a witness, use of a chokehold, or excessive and illegal use of force as defined by the New Hampshire criminal codeⁱⁱⁱ.
- J. All uses of force shall be documented and investigated pursuant to this agency's policies.

III. DE-ESCALATION

- A. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.
- B. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.
1. When reasonable, considering the totality of the circumstances, officers should use all the information available to them at the time to evaluate the incident. The responding officers should assess the risks and coordinate the appropriate resources necessary to

facilitate an outcome that involves the minimal objectively reasonable use of force while being mindful of the sanctity of life of all involved.

2. Supervisors should make every effort possible to respond to a scene where use of force is probable.

IV. USE OF LESS-LETHAL FORCE^{iv}

A. When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment:

1. to restrain or subdue an individual who is actively resisting or evading arrest; or
2. to bring an unlawful situation safely and effectively under control.

V. USE OF DEADLY FORCE^v

A. An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:

1. To defend themselves or a third person from what the officer reasonably believes is the imminent use of deadly force;
2. To effect an arrest or prevent an escape. A law enforcement officer is justified in using deadly force against another when the officer reasonably believes such force is necessary to effect the arrest of, or prevent the escape from custody of, a person, if the officer reasonably believes the person:
 - a. committed or is committing a felony involving the use of force or violence; or
 - b. is using a deadly weapon in attempting to escape; or
 - c. is otherwise indicating that he or she is likely to seriously endanger human life or inflict serious bodily injury, unless they are apprehended without delay.

B. Where feasible, the officer shall make reasonable efforts to identify themselves as a law enforcement officer and warn of their intent to use deadly force.

C. Deadly Force Restrictions

1. Deadly force should not be used against persons whose actions are a threat only to themselves or property.
2. Warning shots^{vi} are inherently dangerous. Therefore, a warning shot must have a defined target and shall not be fired unless:
 - a. the use of deadly force is justified;
 - b. the warning shot will not pose a substantial risk of injury or death to the officer or others; and
 - c. the officer reasonably believes that the warning shot will reduce the possibility that deadly force will have to be used.
3. Firearms shall not be discharged at a moving vehicle unless:
 - a. a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
 - b. the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

- c. Officers shall not intentionally stand and/or step into the path of a vehicle, creating circumstances where the use of deadly force becomes necessary.
4. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.
5. Choke holds, including vascular neck restraints, which prevents or reduces intake of air, or oxygen to the brain are prohibited unless deadly force is authorized^{vii}.

VI. TRAINING

- A. All officers shall receive training, at least annually, on this agency's use of force policy, RSA 627:4, RSA 627:5 and related legal updates.^{viii}
- B. In addition, training shall be provided on a regular and periodic basis and designed to:
 1. provide techniques for the use of and reinforce the importance of de-escalation;
 2. simulate actual shooting situations and conditions; and
 3. enhance officers' discretion and judgment in using less-lethal and deadly force in accordance with this policy.
- C. Training will only be provided to officers by instructors certified to do so and with the approval of the Chief of Police.
- D. Only those agency personnel demonstrating proficiency at the most recent department training or training provided by a qualified vendor or other law enforcement agency in the use of agency- authorized weapons, defensive tactics or handcuffing techniques shall be approved to carry such weapons or utilize such tactics or techniques.
- E. All use-of-force training shall be documented.
 1. Documentation shall be consistent with New Hampshire Police Standards and Training Council Rule Pol.404 requirements.
 2. The lead instructor is responsible for documenting the training.
 3. A copy of all Use of Force training reports/logs shall be maintained by the Chief of Police or his designee.
 4. Officers completing training shall have the training recorded in their P-File.
 5. Annual training reporting on Use of Force required by NHPSTC will be provided NLT January 15 for the previous year.
 6. Training records shall be maintained consistent with the State of New Hampshire records retention laws.^{ix}

ⁱ *Graham v. Connor*, 490 U.S. 386 (1989).

ⁱⁱ Based on the definition from *United States v. McConney*, 728 F.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

ⁱⁱⁱ NH RSA 105:19

^{iv} New Hampshire DOJ Law Enforcement Manual, page 37-39

^v New Hampshire DOJ Law Enforcement Manual, page 44-45

^{vi} Adopted from International Association of Chiefs of Police National Consensus Discussion Paper on Use of Force and Consensus Policy

^{vii} NH RSA 627:5,IX

^{viii} New Hampshire Police Standards and Training Council Rule Pol.404.03

^{ix} NH RSA 33-A:3-a