

# MARLBOROUGH POLICE DEPARTMENT

## Use of Force

410

Effective Date  
04/30/2010

Distribution  
All Members

### Note

**This written directive is for the internal governance of the Marlborough 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.**

### Purpose

The purpose of this policy is to provide employees with guidelines on the use of deadly and non-deadly force.

### Policy

This Department recognizes and respects the value and special integrity of each human life. In Investing employees with the lawful authority to use force to protect the public welfare a careful balancing of all human interests is required. Therefore, it is the policy of the Marlborough Police Department that employees shall use only force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the employee or another.

All employees will be issued a copy of this policy, and will be trained in the use of force, before being authorized to carry a weapon.

### Definitions

#### Deadly Force

Any use of force that is likely to cause death or serious bodily injury.

#### Non-deadly Force

Any use of force other than that which is considered deadly force.

#### Reasonable Belief

The facts or circumstances the employee 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.

#### Serious Bodily Injury

Any harm to the body, that causes severe, permanent or protracted loss of, or impairment to, the health or function of any part of the body.

### Procedures

#### I. Training and Qualifications

##### A. Training Required

Prior to engaging in any law enforcement activity, sworn members will be trained in the use of force, pursuant to State Law, and the parameters set forth in this policy. They will demonstrate a working knowledge of, and be tested on, the material presented. While on and off duty, employees shall carry only weapons and ammunition as authorized by departmental policy.

**B. Deadly Weapons**

The following guides the issuance of Deadly Weapons:

1. Authorized weapons are those with which the employee has qualified and received departmental training on proper and safe usage, and that are registered and comply with departmental requirements.
2. Before being issued any weapons, employees will be trained in their use, under the supervision of a certified department firearms instructor, in compliance with Rule Pol 302.03 (c) and 404.03 of the NH Police Standards and Training Council. Employees will be graded on a pass or fail basis. Training and proficiency shall be documented by a certified instructor.

Employees will not be permitted to carry a weapon with which he or she has not been able to qualify with during the most recent qualification period.

**C. Less Lethal Weapons**

The following guides the issuance of Less Lethal Weapons:

1. No employee will be permitted to carry or use a less lethal weapon unless qualified in its proficient use as determined by proper training procedures.
2. ASP Police Baton, Taser and OC Spray are the less lethal weapons authorized to be carried by employees.

**II. Parameters for the Use of Deadly Force**

**A. Justification for Using Deadly Force**

Employees are justified in using deadly force only when they reasonably believe that such force is necessary to:

1. Defend themselves or another from what is reasonably believed to be the imminent use of, or actual use of deadly force.
2. To stop a person whom the employee reasonably believes has just committed, or is committing, a felony involving the use of deadly force, and the suspect poses a significant threat to the employee or another through his immediate capability to continue the use of deadly force, unless apprehended without delay; and
3. The employee has made reasonable efforts to advise the person that he or she is a law enforcement officer attempting to affect an arrest and has reasonable grounds to believe that the person is aware of these facts.

**B. Discharge of Weapon**

Employees may also discharge a weapon under the following circumstances:

1. During range practice or competitive sporting event.
2. To destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured.

**C. Drawing and Exhibiting Weapon Prohibited**

Except for maintenance or during training, employees shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with this policy.

**D. Warning Shots**

Warning shots are prohibited.

**E. Weapons and Vehicles**

Employees shall not discharge their weapons at or from a moving vehicle, unless a person in the vehicle is immediately threatening the employee or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an employee's use of deadly force. An employee threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.

**III. Parameters for the Use of Non-deadly Force**

**A. Justified Non-Deadly Force**

An employee is justified in using non deadly force upon another when he or she reasonably believes it is necessary to:

1. Affect an arrest or detention.
2. Prevent escape from custody of an arrested or detained person, unless he or she knows that the arrest or detention is illegal.
3. Defend himself/herself or another from what he or she reasonably believes to be the imminent use of, non deadly force.

**B. Compliance is the Goal**

Employees should assess the incident in order to determine which non-deadly force technique or weapon will, best gain compliance in the safest manner.

**C. Unusual Circumstances**

It is recognized that an employee may not always be able to utilize an approved weapon in situations where the use of reasonable force is necessary.

1. Circumstances may require employees to use objects such as keys, flashlights, etc., to protect themselves or a third party from the unlawful use of non deadly or deadly force.
2. As with all other use of force cases, employees shall file a written report documenting the facts supporting the employee's use of force and any special circumstances existing at the time. Such report shall contain the following information:
  - a. The item used and a description of the manner in which it was used and why;
  - b. Specific identifying characteristics of such item, e.g., serial number, brand name, etc., and;
  - c. That the item has been properly marked for identification, and placed into evidence where necessary.

**D. Necessary and Reasonable Force**

The force used will be no greater than is necessary and reasonable given the situation.

**E. Verbal Skills**

The use of verbal skills should be used to gain voluntary compliance whenever possible.

**IV. Reporting Use of Force**

**A. Written Report Required**

A written report, using a form provided by the department, prepared according to departmental procedures will be required in the following situations:

1. Whenever a firearm is discharged outside of the firing range.

- a. When an employee is required to euthanize an animal, a letter to the Chief outlining the circumstances along with a call for service sheet will be sufficient documentation.
2. Whenever force is used.
3. When a lethal or less than lethal weapon is used on any person.
4. When a subject complains that an injury has been inflicted, or it is obvious that an injury or death has been sustained.
5. When an employee applies weaponless force upon another to the extent it is likely to cause or lead to unforeseen injury, claim of injury, or allegation of excessive force (i.e. motor vehicle accident, improper handcuffing, etc.).

**B. On Call Supervisor Notification**

A supervisor will be immediately summoned to the scene and will comply with on scene investigative procedures as required by the department, in the following situations:

1. When a firearm is discharged outside of the firing range.
2. When a use of force results in death or serious injury.

**C. Emergency Medical Services**

In all cases where a subject complains of an injury, or it is obvious an injury has occurred, employees shall render appropriate aid and contact Emergency Services as soon as possible.

**V. Departmental Response**

**A. Deadly Force Incident**

When an employee experiences a Deadly Force incident the following will occur:

1. Where an employee's action or use of force in an official capacity results in death or serious bodily injury, that employee shall be reassigned from normal duties pending completion of the incident investigation, and until it is determined by a police psychologist that the employee is ready to resume regularly scheduled duty.
2. The department shall contact the NH Attorney General's Office and ask that an investigation be conducted into the incident. The Chief of Police shall maintain liaison with the Attorney General's Office during the investigation.
3. Any firearm used in the incident will be confiscated by the investigating officers, and unless there is just cause not to do so, a replacement weapon shall be issued to the employee.

**B. Administrative Review of Critical Incidents**

1. All reported uses of force will be reviewed by the Chief of Police or his designee to determine whether:
  - a. Departmental rules, policy or procedures were followed.
  - b. The relevant policy was clearly understandable and effective to cover the situation.
  - c. Department training and/or equipment is currently adequate.
2. All findings of reported use of force shall be reported to the Chief of Police for review and/or resolution.
3. All use of force incident reports shall be retained as required by law and departmental policy.
4. An annual summary report of use of force incidents will be completed and may be made available to the public.

5. An annual analysis of the use of force incidents will be conducted by a member designated by the Chief of Police. The analysis should address patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications.

**Source**

Dunbarton Police Department  
Lee Police Department  
NH RSA's

Authorized By

Christopher J. Lyons  
Chief of Police

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DATE