



New Bedford Police General Order

Subject USE OF LESS-LETHAL FORCE	General Order Number 12-02
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I. PURPOSE

The purpose of this policy is to establish guidelines for the "Use of Less-Lethal Force" by sworn members of this department while engaged in the performance of their duties.

II. POLICY

A./ The New Bedford Police Department places its highest value on the life and safety of its officers and the public. In the conduct of policing, all officers must embrace the obligation to ensure that the safety of the public is preserved to the fullest extent possible. Likewise, the safety of all officer must be appropriately safeguarded in all actions of the police. Safety of the public and the safety of the officers must be regarded with the highest priority. The procedures outlined in this General Order have been designed to ensure that this value guides police officers in the "Use of Less-Lethal Force".

B./ Since there are an unlimited number of possibilities allowing for a wide variety of circumstances, no General Order can offer definitive answers to every situation in which the Use of Less-Lethal Force might be appropriate. Therefore, this order will set certain specific guidelines and provide officers with a basis on which to utilize sound judgment in making personal and prudent decisions. Nothing in this policy should be construed to prohibit officers from using whatever means are necessary, including the use of weapons or objects to protect the life of the officer or another in an emergency situation.

C. When time and the totality of the circumstances permit, officers shall use de-escalation tactics in order to reduce the need for force.

Examples include:

1. The use of communication skills, verbal advisements, warnings, and persuasion.
2. Attempts to slow down or stabilize the situation so that more time, options and resources are available.
3. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.

III. DEFINITIONS (1.3.2)

- A. **Deadly Force**: Any use of force likely to result in death or serious bodily injury. Deadly force is also referred to as deadly physical force, which is any use of force likely to cause death or great bodily harm
- B. **De-escalation**: The tactical use of verbal and/or physical skills to prevent a potentially dangerous situation from escalating.
- C. **Less-Lethal Force**: Any use of force which under the circumstances, is neither likely, nor intended to cause death or serious bodily injury
- D. **Serious Bodily Injury**: a bodily injury which creates a substantial risk of death, or which is likely to cause serious or permanent disfigurement, protracted loss or impairment of any bodily function, part, limb or organ
- E. **Reasonable Belief**: when facts and circumstances would cause a reasonable and prudent police officer to act or think in a similar way under similar circumstances
- F. **Imminent Danger**: a risk of harm that is perceived by a reasonable and prudent police officer as threatening, menacing, impending, proximate or immediate in nature
- G. **Positional Asphyxia**: a death that occurs when a subject's body position interferes with breathing
- H. **Communication Skills**: used to reduce potentially violent situations and prevent or minimize the need for physical force

IV. GENERAL CONSIDERATIONS

A./ The New Bedford Police Department values its relationship with the community and believes in providing quality police services through the trained

professional members of the Department. As long as officers are confronted with force in the performance of their duties, it remains necessary for them to be properly armed and trained for their own protection and that of the public at large.

B./ The Department recognizes and respects the value and special integrity of each human life. In providing officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. The degree of force an officer uses is often dependent upon the amount of resistance or threat to safety that is presented by the circumstances.

C./ The objective of using force is to maintain and regain control over an incident. Control is accomplished whenever a person complies with an officer's lawful and appropriate directions and/or he/she is apprehended, restrained and no longer poses a threat to officers or others.

D./ In determining when to use force, officers are to be guided by the principle that the least amount of force necessary in any given situation is the greatest amount of force that is permissible. Any use of force must be justified. Only that amount of force which is reasonable and proper should be used to accomplish lawful objectives (1.3.1), such as to make a lawful arrest, place a person in protective custody, to effectively bring an incident under control, to overcome resistance directed against an officer, or to protect the lives or safety of the officer or others.

E./ When exigent and unforeseen circumstances present officers with no reasonable alternative but to deviate from the provisions of this General Order, officers are expected to act with intelligence, sound judgment and in full conformity with both state/federal laws and constitutional provisions. Any such deviation from these rules shall be examined on a case by case basis.

V. USE OF DE-ESCALATION

A. De-escalation: Whenever reasonable according to Department policies and training, officers shall use de-escalation tactics to gain voluntary compliance and seek to avoid or minimize the use of physical force.

1. When safe and feasible, officers shall:

- a. Attempt to slow down or stabilize the situation so that more time, options and resources are available.
 - i. Mitigating the immediacy of the threat gives officers more time to call additional officers or specialty units and to use other resources.
 - ii. The number of officers on scene may make more force options available and may help reduce overall force used.

B. Consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

Medical conditions

Mental/Behavioral Health Crisis

Developmental disability (such as Autism or Asperger's syndromes)

Physical limitation

Language barrier

Drug or alcohol use

Such considerations, when time and circumstances reasonably permit, should then be considered when planning a response.

C. De-escalation tactics include, but are not limited to:

1. Placing barriers between an uncooperative subject and an officer.
2. Moving from a position that exposes officers to potential threats to a safer position.
3. Reducing exposure to a potential threat using time, distance, cover or concealment.
4. Communication from a safe position intended to gain the subject's compliance, using verbal persuasion, advisements or warnings.
 - a. Avoidance of physical confrontation, unless immediately necessary (e.g. to protect someone or stop dangerous behavior.)
 - b. Using communication skills to calm an agitated suspect and promote rational decision making.
 - c. Calling additional resources to assist, including more officers, CIT officers and officers equipped with less-lethal tools.
 - d. Removing unnecessary persons from the scene.

VI. USE OF LESS-LETHAL FORCE

A./ Whenever deadly force is not authorized, officers should assess the situation in order to determine which less lethal use of force technique will best de-escalate the incident and bring it under control in a safe manner. If practical, officers should consider effective communication skills and/or maintaining distance, if feasible to do so, in their effort to de-escalate the given situation. Officers shall use no more force than is reasonably necessary to gain control of an individual or situation. (1.3.4) Officers are authorized to use department approved less lethal force options in order to;

- 1) protect themselves or another from physical harm

- 2) preserve the peace
- 3) prevent the commission of a crime
- 4) restrain or subdue a resistant individual while making a lawful arrest or placing a person in protective custody
- 5) bring an unlawful situation safely and effectively under control

B./ Factors that may influence the level of force used by the officer may include, but are not limited to the;

- 1) nature of the offense
- 2) behavior of the subject against whom force is to be used such as resistive actions or aggressive acts
- 3) actions by third parties who may be present
- 4) physical odds against the officer such as the size and conditioning of the subject and the officer
- 5) availability of and assistance by additional officers
- 6) feasibility and availability of alternative action(s)
- 7) awareness of, or apparent, mental or emotional inability of the subject

C./ An officer acting alone may be required to resort to a much greater degree of force than would be necessary if another officer had been present. Therefore, whenever possible, an officer should call for and await assistance unless immediate action is necessary.

D./ The following less-lethal force options are authorized and will be used in ascending order from the least to the most severe measures and during de-escalation, higher levels to the minimum force needed. However, it is not the intent of this policy that officers be required to try each of these options before escalating to the next. Nor does anything contained in this policy limit an officer's ability to use those means reasonably necessary for self-defense.

1. Command Presence: an officer's appearance may be enough to dissuade some persons from engaging in resistive behavior

2. Verbal Communication: Effective verbal communication skills can reduce potentially violent situations and prevent or minimize the need for physical force. Profanity and offensive language by officers can have a damaging effect on public perception of police behavior. Therefore, officers should restrict their use of profanity and offensive language. This will not only improve the quality of their interactions but also reduce the allegations and/or judgements of excessive force.
3. Empty Hand Controls: the use of physical techniques which have a minimal chance of causing serious injury
4. Chemical Substances: used in compliance with department training
5. Electronic Control Weapon (ECW): used in compliance with department training (Refer to General Order 12-03)
6. Impact Weapons: used in compliance with department training

E./ A weapon should not be displayed or brandished as a threat of force unless its actual use in the situation would be proper. This does not prohibit an officer from having a weapon readied when it is anticipated that it may be required.

F./ Officers shall not alter, nor modify, a weapon without the express permission of the Chief of Police. Only weapons authorized by the Chief of Police may be used.
(1 3 9)

G./ The Chief of Police, by this policy, has approved sworn officers of the Department to carry and use authorized weapons in the performance of their law enforcement duties. All officers shall demonstrate proficiency in the use of authorized weapons prior to carrying them. Officers are prohibited from carrying any weapon that has not been authorized by the Chief of Police (1 2 2) (1 3 10)

H./ All weapons authorized for use shall be listed and maintained by the Firearms Division Commander. The Firearms Division Commander will maintain a listing of all officers who have qualified with each weapon, a copy of which shall be sent to the Training Division. All approved weapons intended for use by officers in the performance of their duties shall be inspected by the Firearms Division Commander or certified weapons instructor. All defective or unsafe weapons shall be removed from service.
(1.3.9.c,d)

I./ Choke holds, strangle holds, and other neck controlling techniques that have the potential of causing death or serious bodily injury shall not be used unless the use of deadly force would be otherwise justified. Potential dangerous restraint positions must be avoided during custodial arrest and transportation. Positional asphyxia can occur when a subject's chest is restricted from expanding properly or the position of the subject's head obstructs the airway. Officers should never: restrain a subject's hands and legs together, leave a subject in control restraints lying on his back or stomach, put weight on the subject's back for a prolonged period, or keep a subject waiting for transportation in a restrained position without proper monitoring. The risk of positional asphyxia increases in the presence of alcohol intoxication, drugs, physical ailments, delirium, or respiratory diseases. When feasible, officers should handcuff an arrestee

with both hands behind his back, palms outward. Although most officers have no reason to expect death to result from restraining a subject, it can happen.

VII. TRAINING

A./ At least annually, all sworn officers authorized to carry weapons are required to receive in-service training on the Department's Use of Force policies and demonstrate proficiency with all approved *lethal weapons* that the officer is authorized to use. In-service for other *less-lethal weapons* and weaponless control techniques shall occur at least biannually. (1.3.10) (1.3.11, 1.3.12). All officers shall be given a copy of the Department's Use of Force policies and successfully pass a written examination before being authorized to carry a weapon. Proficiency training shall be provided by a certified weapons or tactics instructor. (1.3.11 a)

B./ All weapon training, policy issuance and instruction shall be documented and maintained by the Firearms Division Commander, to include lesson plans, attendance sheets and proficiency records, a copy of which shall be sent to the Training Division. (1.3.11(b))

C./ Officers requiring remedial training will be given personal instruction on the subject matter by a certified instructor who will document the session and provide additional opportunities to achieve proficiency standards. Remedial training will be provided and proficiency standards satisfied prior to an officer resuming official duties. (1.3.11 c)

VIII. RESTRAINT DEVICES

A./ Officers should avoid placing individuals in handcuffs when he/she is not yet under arrest. There may be situations however where handcuffing a person before arrest is necessary. For example, officers conducting on-the-scene investigations involving potentially dangerous suspects may take precautionary measures if they are reasonably necessary. Officers should be able to articulate the facts and circumstances that warrant placing a person not yet under arrest in handcuffs. If a person is placed in handcuffs and is subsequently released without arrest, a Use of Force report shall be completed prior to the end of the officer's tour of duty. (1.3.6 (d))

B./ Failure to use handcuffs or the improper use of them can result in embarrassing incidents and can create potentially dangerous situations for officers and the public. The department issues handcuffs to all sworn personnel as standard equipment. Officers should not be lulled into a false sense of security after applying handcuffs since the subject can still kick and employ other methods of aggression. If handcuffs have not been properly applied they can potentially become a lethal weapon on the wrists of a desperate person. Whenever a person is placed under arrest, he/she shall be handcuffed and then searched in accordance with department training, policies and procedures.

C./ Whenever a person is arrested or taken into custody the double locking feature on the handcuffs shall be used for safety, to prevent potential injury and unintentional tightening, with their hands behind their backs and palms outward unless exigent circumstances exist or conditions such as physical handicaps, pregnancy, illness, injury, age or other extenuating circumstances prevent officers from doing so. In either event, the officer(s) responsible shall be prepared to justify their actions.

D./ Supervisors may authorize officers to use leg restraints on extremely violent or high security risk prisoners. (70.2 1)

E./ Flex-Cuffs should generally be considered as temporary restraints, useful in mass arrests or in situations when a prisoner's hands and wrists are too small/large for conventional handcuffs. Other authorized restraints may be used when necessary to prevent escape, ensure officer safety, or minimize self-inflicted injury by prisoners.

IX. CHEMICAL AGENTS AND MUNITIONS

A./ Chemical agents such as CS (chlorobenzylidene malonitrile) or Oleoresin Capsicum Spray (hereinafter "OC spray"), are less-lethal weapons utilized in a variety of tactical situations ranging from dispersing an unruly gathering to subduing a resisting person. These weapons are generally employed when lesser means of controlling a situation have failed or would be ineffective and an escalation of force is necessary. OC spray is dispensed in an aerosol form and will be carried in an issued holster on the duty belt of all authorized personnel when in uniform.

B./ Chemical weapons are considered soft intermediate weapons and training in their proper application is required prior to their issue or use. All training shall be documented and maintained by the Firearms Division Commander, a copy of which shall be forwarded to the Training Division. Some practical uses of chemical weapons are to:

- 1) Repel human and animal attacks;
- 2) Temporarily incapacitate violently resisting subjects
- 3) Compel barricaded subjects to leave an enclosure
- 4) Disperse violent crowds or riots

C./ Officers shall not use OC spray on subjects exhibiting only passive resistance to arrest or authority.

D./ Officers will not use OC spray on subjects who are under physical restraint, unless the subject is still violently resisting and lesser means of controlling the subject have failed.

E./ Persons who have been subjected to chemical weapons shall, as soon as practical and when safe to do so, be afforded a means of cleansing the chemical agent from

the eyes and/or skin with cool water to lessen the discomfort. The affected person should be removed from the area of exposure and into fresh air. If aggravated symptoms persist, medical attention shall be afforded the subject.

F./ Officers will ensure when transporting prisoners who have been subjected to chemical weapons that the prisoner is not placed in a prone position and stays upright with a clear airway to avoid possible positional asphyxia. Officers must be especially careful when restraining combative subjects following the use of chemical weapons.

G./ Officers should consider allowing EMS to transport prisoners for immediate medical attention when circumstances permit.

H./ Before booking, officers shall advise the Booking Supervisor when an arrestee has been subjected to chemical weapons.

I./ The department maintains a specialized chemical agent, such as CS gas for use by the Special Reaction Team, (hereinafter "SRT"). This agent is used only in specific tactical situations. The SRT Commander is responsible for ensuring that members authorized to deploy this agent are properly trained in their use and deployment guidelines.

X. IMPACT WEAPONS

A./ This department authorizes six impact tools for use as less-lethal weapons against assailants. They are the 12", 16", 24", 36" baton (straight or expandable), the PR-24 baton and lead weighted flat sapstick.

B./ The 24" baton is the standard issued baton for all uniformed personnel. An expandable baton may also be worn in place of the 24" straight baton. The lead-weighted flat sapstick may be used instead of the standard issued baton for plain clothes officers only. The 36" baton may be used in cases of riot or major disturbances. A ranking officer will issue them as the need arises.

C./ Impact tools may be used by an officer;

- 1) in self-defense, or in defense of another
- 2) when it is necessary to subdue a person violently resisting arrest
- 3) to deter persons engaged in riotous or violent conduct.

D./ Impact tools shall be used in compliance with departmental training. In addition, the following guidelines shall be observed;

- 1) strikes capable of inflicting possibly fatal or permanent injury should be avoided. For example, strikes to the head, temple, spine, kidney, neck,

solar plexes or throat can result in serious injury or even death. Therefore, as tactics of last resort, they should be used only when the use of deadly force would otherwise be authorized.

2) Whenever possible, the baton should not be raised above the head to deliver a strike. Overhead strikes are easily blocked and also make it possible for the impact weapon to be taken from the officer and used against him/her.

XI. SPECIALTY IMPACT WEAPONS AND DIVERSIONARY DEVICES

A./ Specialty impact weapons are those munitions assigned only to the Special Reaction Team (SRT). Noise Flash Distraction Devices (hereinafter "NFDD") are grenades that emit only light and sound when initiated and may be used as diversionary tactics. Specialty impact weapons and NFDD grenades may only be used by SRT members who have received training in their use and deployment.

B./ Authorized specialty impact weapons include a bean bag round, otherwise referred to as a flexible baton round. A flexible baton round is a type of shotgun shell used for less-lethal apprehension of suspects. Bean bag rounds may be used when circumstances require incapacitation and force less than deadly would be a preferable response. SRT members who use bean bag rounds during lethal circumstances/situations shall have a cover member(s) with them that is prepared to immediately use deadly force, if necessary. Bean bag rounds are considered deadly force if *intentionally deployed to the head or neck* and should only be used if the use of such deadly force would be justified.

C./ Whenever possible, SRT members should inform other police personnel in the immediate vicinity that bean bag rounds or NFDD grenades will be deployed in order that the sound does not precipitate the use of firearms by other officers.

D./ Persons struck with bean bag rounds should be transported to a medical facility for examination.

XII. CANINES

A./ The proper use of a canine to subdue a combative or fleeing subject is considered a less-lethal use of force. Operational guidelines for the training and deployment of canines are detailed in *General Order 6-03*.

XIII. DUTY TO INTERVENE

Sworn employees have an obligation to protect the public and other employees. If officers witness colleagues using excessive, unnecessary or unreasonable force, or

anticipate a colleague is about to use excessive, unnecessary or unreasonable force in any situation, they are required to immediately take action to stop any use of excessive, unnecessary or unreasonable force.

It shall be the policy of this Department that every sworn employee present at any scene where physical force is being applied to either stop or attempt to stop another employee when force is being inappropriately applied or is no longer required.

Sworn employees witnessing or having knowledge of any instance where excessive, unnecessary, or unreasonable force has been applied shall notify his or her Division Commander immediately and submit a written report through the Division Commander to the Chief of Police forthwith, which shall include the following information:

- A. Name of victim, officer(s) involved and other witnesses
- B. The extent of the victim's injuries
- C. Details of the excessive or unnecessary use of force

XIV. REPORTING PROCEDURES (1.3.6)

A./ Whenever force as defined by this policy is used, it shall be documented in a *Use of Force Report* with a description of the type of force used (i.e. empty hands, impact weapon, chemical weapon, less lethal munitions, etc.). These reporting requirements *do not require* reporting hand-to-hand control techniques, for example; physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, escort techniques and handcuffing that have little or no chance of producing injuries when trying to control or subdue a non-compliant or resistant person.

B./ The report shall indicate the name and address of the person upon whom the force was used, the names and addresses of any witnesses including all police officers, and whether medical treatment was administered.

C./ An Incident & Criminal (hereinafter "I&C") report, when required, will also be completed indicating the type of force used, but the details of its application shall be confined to the Use of Force Report.

D./ Whenever a person requires medical treatment because of an officer's use of force, the officer shall notify his/her Commanding Officer forthwith. The Commanding Officer shall cause a supervisor to proceed to the scene or medical facility, whichever is more practical. The supervisor shall then examine the prisoner and ensure that the provisions of *General Order 14-06* are complied with. All I&C, Injured Prisoner, Use of Force reports and photographs of the injury shall be forwarded through the proper chain of command to the Chief of Police for review. The Chief of Police shall ensure that a copy of all reports are forwarded to the Division of Professional Standards for further review in

order to make a determination whether the use of force was in compliance with department policy and procedure. (1.3.7)

E./ Whenever an officer *arrests* a person and intends on bringing charges of resisting arrest in violation of MGL Chapter 268, Section 32B, the officer will immediately upon arrival at Central Booking, notify the Booking Supervisor. The Booking Supervisor will confer with the officer and review the circumstances of the arrest and the appropriateness of the charge. No person will be booked for a charge of "resisting arrest" without this review and approval by the Booking Supervisor. All reports involving criminal charges of resisting arrest shall be forwarded through the proper chain of command to the Division of Professional Standards.

F./ All completed Use of Force Reports will be forwarded to the Division of Professional Standards for administrative review through the Office of the Chief of Police.
(1.3.7)

XV. MEDICAL TREATMENT (1.3.5)

A./ After any level of force is used, the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when;

- 1) the suspect is in obvious need of medical attention
- 2) the suspect has a serious injury; or
- 3) the suspect complains of injury or discomfort and requests medical attention

B./ Any person requesting and/or deemed in need of medical attention shall be evaluated by medical personnel or transported in accordance with department policy to an appropriate hospital or medical facility. All medical treatment received shall be included in the officer's report. If the suspect displays impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior, and during the arrest exhibits great strength or a diminished sensitivity to pain, the individual may be showing signs of excited delirium. During the arrest or immediately after the struggle sudden death may ensue. Therefore, arrestees displaying these symptoms should be examined by medical personnel.

C./ Persons suffering from cocaine intoxication, particularly if used in conjunction with alcohol, are subject to increased blood pressure, heart rate and body temperature. Since sudden death may occur in such persons, medical personnel should examine arrestees displaying these symptoms.

D./ Psychiatric patients who display hyperthermia (over heating), are in and out of consciousness, and have lumpiness of skeletal muscles may be suffering from

Neuroleptic Malignant Syndrome and may also be prone to sudden death. Arrestees displaying these symptoms should be examined by medical personnel.

XVI. ANNUAL ANALYSIS and REVIEW

The Division of Professional Standards is responsible for ensuring that all Use of Force reports are complete, accurate and have been reviewed by the appropriate chain of command for adherence to policy. The Division of Professional Standards shall produce and forward to the Chief of Police an annual analysis of all Use of Force Reports for indications of patterns or trends that could indicate training needs, equipment upgrades and/or policy revisions (1.3.13). This annual report shall be made available to the public, upon request.

The Commission on the Police Use of Force Policies (appointed by the Mayor), shall review this policy annually and make appropriate recommendations to the Mayor, to include training needs, equipment upgrades, an/or policy revisions.


Paul J. Oliveira
Chief of Police

CC: all divisions and bureaus
policy manual