



STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE
PROFESSIONAL STANDARDS OF CONDUCT



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CHAPTER 41-K
NON-DEADLY WEAPONS & FORCE

41-K.1.0 Discussion

Division members are frequently called upon to use various degrees of force to effect arrests and to ensure the public safety. It is this use of force that is often the subject of allegations of excessive force or improper force in a particular situation. It is imperative that Division members use only the force that is necessary and appropriate for the situation at hand.

No sworn Division member shall be authorized to carry non-deadly weapons until they have received copies of, and instruction in, Division directives concerning the use of force. Only Division authorized non-deadly weapons shall be used by Division members in the performance of official duties. Every sworn Division member will demonstrate proficiency with authorized non-deadly weapons on at least an annual basis. Any sworn Division member who does not demonstrate proficiency may be subject to reassignment until such time as they successfully meet all qualification standards.

41-K.1.1 Justification of Use of Non-Deadly Force

- A. A Division member is justified in using non-deadly force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest or detention or prevent the escape from custody of an arrested or detained person unless he knows that the arrest or detention is illegal, or to defend himself or a third person from what he reasonably believes to be the imminent use of non-deadly force encountered while attempting to effect such an arrest or detention or while seeking to prevent such an escape. (NH RSA 627:5)

41-K.1.2 Continuum of Force

- A. The dynamics of all encounters are different, and it would be impossible to attempt to categorize and define the levels of force appropriate in all possible situations. When a sworn Division member determines that the use of force is necessary and appropriate, he shall respond to the threat utilizing that reasonable level of force necessary to overcome the actual or perceived threat or resistance.

Division members shall be aware of rapidly changing circumstances and be ready to immediately escalate or deescalate as the situation dictates. Think of the continuum of force as points on a circle around you. Although the following levels of force are presented as a list, it should not be construed to mean that escalation or de-escalation of force needs to follow a series of steps. A situation can go from one point on the circle to another, bypassing any or all of the points in between.

Division members must be aware AT ALL TIMES that when a subject stops resisting and is under control, use of force must be deescalated.

1. State Police Presence

- a. Often the presence of one or more Division members will be enough to quell a potential or actual disturbance. When confronted with a situation that could deteriorate without police presence, it is often best to have a Division member in the area, visible to all, to act as a deterrent. Quite often, the presence of one or more Division members is all that is necessary to quickly and effectively resolve a potential disturbance.

2. Verbal Persuasion

- a. The use of courtesy in all public contacts encourages understanding and cooperation between law enforcement officers and the community. Quite often, a display of courtesy and respect coupled with firm control of the situation will encourage understanding and cooperation. A lack of courtesy often arouses resentment and may lead to resistance.
- b. The most desirable method of achieving compliance with the subject is through the use of simple directions. An attempt to control the subject through advice, persuasion, and warnings should be used in appropriate situations prior to the application of force.
- c. The above should not be construed to suggest that a Division member should risk losing control of a situation, thus endangering the safety

of himself or others through the application of verbal persuasion in situations where the use of physical force is the proper choice.

3. **Use of Empty Hand Control/Physical Strength**

- a. Frequently, subjects are reluctant to be taken into police custody, and offer some degree of physical resistance. This resistance is often in the form of passive or defensive resistance, and normally is not intended as an act of overt aggression toward the Division member. Normally, all that is required to overcome this type of resistance is the application of slightly greater physical force and skill in restraining the subject. Good judgment is extremely important in deciding which tactics to use and how much force to apply.
- b. Division members should be aware that a subject's resisting actions may quickly escalate to high violence levels and active aggression.
- c. When confronted with a situation that may necessitate the use of physical force, consideration must be given to requesting additional police assistance prior to the actual encounter. Often, the presence of more than one Division member will prevent a situation from escalating to the point where the use of physical force is necessary.

4. **Oleoresin Capsicum Aerosol (OC Spray)**

- a. This is an organically based, less-than-lethal; aerosol weapon designed to incapacitate an attacker with no medical side effects. Its formulation is based on a powerful inflammatory agent that occurs naturally in cayenne peppers. OC affects the mucous membranes of the eyes, nose, mouth and throat.
- b. Effects of OC usually last from 15 to 45 minutes. If a person takes longer than 45 minutes to recover, medical personnel should evaluate him/her.
 - (1) After using OC, Division members shall closely monitor the subject's condition, paying special attention to the subject's breathing. Care shall be taken that no subject is transported in a way that will hinder breathing. If it appears that a subject is having trouble breathing, **GET MEDICAL ATTENTION PROMPTLY.**
- c. Only OC Spray approved by the Director or his designee may be utilized in the performance of official duties.
- d. OC may be used at any level other than State Police Presence or Verbal Persuasion to incapacitate an attacker or resister.

- e. Unless otherwise authorized by the Director, patrol personnel shall, carry the OC dispenser on the duty belt of the Class B, C, D, E and F uniforms.
- f. OC shall be used in compliance with OC training and proper decontamination procedures shall be followed. Division members using OC on a subject must ensure they will have control of the subject when he becomes incapacitated. EXAMPLE: If a subject is encountered near traffic, he must not be allowed to run into traffic while incapacitated.
- g. OC is often effective on animals, as well as people, and may be used to incapacitate an attacking animal.

5. **Use of Taser**

- a. The Taser is a hand held energy-conducting weapon that sends out high voltage electrical waves of short duration. These waves overpower the normal electrical signals within the nerve fibers of the body. The electrical waves affect both the sensory and motor nervous system causing incapacitation.
- b. The Taser may be used when verbal commands have failed to bring about compliance and the subject has given indications of their intention to resist the Division member's efforts to make the arrest. The Taser is not a substitute for lethal force [REDACTED]
- c. Unless otherwise authorized by the Director, patrol personnel with the rank of Lieutenant and below shall, while on duty, carry the Taser on the duty belt of the Class B, C, D, E and F uniforms. The Class E uniform requirement does not include during actual training sessions.
- d. Personnel assigned to detective duty may carry the issued Taser.
- e. The Taser shall be carried on the opposite side of the issued firearm.
- f. The Taser shall **not be carried off duty**.
- g. Division members must be aware that utilizing the Taser often causes the suspect to fall from a standing position and should be aware of secondary injuries received by the suspect after a fall.

- h. 
- i. The Taser is programmed to give a 5-second “electrical current.” The operator can shorten or extend this time. The probes should not be touched during this period, as the Division member would receive the same “electrical current.”
- j. A Division member shall not remove the probe if the barb shaft is imbedded so deep as to prevent the probe from hanging loosely. The Division member shall summon medical personnel to examine the person if the probes cannot be removed because of (1) Depth of penetration of the probes or (2) A hit to the head, groin or to a female’s breasts. Division members shall wear latex gloves when removing probes from the skin. Division members shall use the “two-finger method” for removing probes.
- k. A suspect shall be handcuffed as soon as possible after being exposed to the Taser. If suspect does not respond sufficiently to the Taser, Division members shall be prepared to employ other levels of force consistent with Division policy, to gain control of the suspect.
- l. Suspects on whom the Taser has been used shall be monitored continuously for indications of medical problems while in State Police custody.
- m. All used Taser cartridges will be packaged and sealed as outlined in the training. Cartridges may be transported to the State Police Forensic Lab at a later time for proper disposal. These cartridges shall not be submitted as evidence unless unusual circumstances exist.
- n. Division members shall report use of the Taser on a Use of Force Report (DSSP 307). This report shall be submitted through the chain of command. A copy of the Data Port Download must be attached to all Use of Force Reports.
- o. The Taser shall not be used under any of the following circumstances:
 - 1. 
 - 3. In cases of passive resistance by a person unless a lesser means of force: (a) has been attempted and failed. (b) Is not an option due to exigent circumstances. (c) If attempted, may result in injury to the suspect or Division member.

4. To threaten a person in an attempt to gain information.
5. Against a subject already in custody unless physical resistance has to be overcome.

6. To wake a sleeping or unconscious person or intoxicated subject.

8. As a form of punishment.

p. No Division member shall playfully, maliciously or intentionally misuse the unit in an improper display of power.

q.

6. Use of Impact Weapons

- a. Only impact weapons approved by the Director shall be authorized for use within the Division.
- b. Only Division members who have successfully completed Division approved training for any specific impact weapon are authorized to carry and use that weapon.
 - (1) Only those techniques taught in approved training courses shall be authorized for use. All other baton techniques shall be prohibited.
- c. Impact weapons are capable of delivering lethal or permanently disabling blows. Strikes to the head, throat, shoulders and chest are prohibited, except in situations where the use of deadly force would be authorized.
- d. Carrying of issued impact weapon is optional except for crowd control, riot situations, or when otherwise directed by a supervisor. When carried, the baton shall be holstered unless the situation dictates that the use of the baton is imminent.
- e. Excessive force, misuse or non-professional behavior with the baton will not be tolerated under any circumstances.

6. **Use of Deadly Force:** The use of deadly force is the last option within the force continuum. The use of deadly force shall only be authorized as per Chapter 41-L.

41-K.1.3 Unauthorized Non-Lethal Weapons

- A. The carrying of any instrument as an offensive or defensive weapon not specifically authorized or issued as a weapon by the Division is prohibited.
 1. Examples of unauthorized weapons include, but are not limited to: saps, blackjacks, sap gloves, brass knuckles, and unauthorized chemical weapons.

 2. Flashlights should not be used as intermediate impact weapons except in extreme cases where no other adequate weapon is available. The flashlight should be used in a manner consistent with impact weapon training. The application of lethal force is prohibited except where the use of deadly force is authorized.

41-K.2.1 Medical Assistance

- A. Division members shall obtain appropriate medical attention for subjects against whom they have used physical force or any weapon when:
 1. The subject complains of injury
 2. The Division member knows he has caused injury
 3. The Division member has used force to the extent that injury, although not readily apparent, is possible. An example of this would be an instance where an intoxicated person is struck with a baton.

41-K.3.1 Reports and Administrative Review Required

- A. Reports and administrative reviews of non-deadly force shall be accomplished according to the provisions of Professional Standards of Conduct Chapter 1-C entitled REVIEW OF USE OF FORCE.