



USE OF FORCE POLICY

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Table of Contents

OBJECTIVE.....	3
GENERAL.....	3
DEFINITIONS.....	3
AUTHORIZED USE OF DEADLY FORCE.....	5
USE OF FORCE CONTINUUM.....	6
CONSIDERATIONS.....	7
OTHER RESPONSIBILITY.....	7
REPORTING.....	9
ATTACHMENTS.....	9
REVISIONS.....	9

State of New Hampshire Judicial Branch

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OBJECTIVE

To provide Court Security Officers (CSOs) with guidance on the authorized use of physical force and weapons in the conduct of official duties.

GENERAL

Weapons are carried by CSOs for self-defense and the defense of the public, witnesses, litigants, jurors, attorneys, court personnel, and judges only, recognizing that in the performance of duties in the court, CSOs may be confronted with life-threatening situations. All CSOs will be trained in the use of firearms and will know the New Hampshire laws pertaining to the use of deadly force in the performance of their duties.

It is the policy of the New Hampshire Judicial Branch that force will be used by its CSOs only to the degree necessary to affect lawful objectives.

The value of human life cannot be measured, and the apprehension of offenders must at all times be subordinate to the protection of human life and safety, including the lives of innocent bystanders, the offender, and the CSO.

All CSOs will be issued a copy of this policy before being authorized to carry a firearm.

DEFINITIONS

Wherever they appear in this procedure, unless specifically defined otherwise, the following words or phrases will have the meaning ascribed to them in this section:

A. **Deadly Force**

NH RSA 627:9, II defines deadly force as, "Any assault or confinement which the actor commits with the purpose of causing, or which he or she knows to create a substantial risk of causing death or serious physical harm. Purposefully firing a firearm capable of causing serious physical harm or death in the direction of another person or at a vehicle in which another person is believed to be constitutes deadly force."

State of New Hampshire Judicial Branch

Original Release Date: 4/10/2014	Effective Date: 4/10/2014	Revision Date: 4/10/2014

B. Non-deadly Force

NH RSA 627:9, IV defines non-deadly force as, "Any assault or confinement that does not constitute deadly force."

Further, it is deemed to be that force which, when properly used, is unlikely to result in serious injury or death.

C. Serious Injury

NH RSA 627:11, VI defines serious injury as, "Any harm to the body which causes severe, permanent, or protracted loss of or impairment to the health or of the function of any part of the body."

D. Probable Cause

The existence of facts and circumstances within the CSOs knowledge which are sufficient in themselves to warrant a person of reasonable caution in the belief that the conduct in question has or will occur.

E. Reasonable Belief

The objective reasonableness from the perspective of a reasonable officer on the scene. It requires careful attention to all the facts and circumstances of each case.

F. Permissible Force

1. Firearms are for self-defense and for the protection of the judges, court employees, and the public recognizing that, in the performance of their duties, CSOs may have to deal with dangerous persons who confront them and court users with life-threatening situations.

2. No unnecessary or unreasonable force or means of restraint will be used in detaining or arresting any person.

State of New Hampshire Judicial Branch

Original Release Date: 4/10/2014	Effective Date: 4/10/2014	Revision Date: 4/10/2014

3. A CSO is justified in using non-deadly force upon another person only when and to the extent that he or she reasonably believes it necessary to effect a valid arrest or detention or to prevent the escape from custody of an arrested or detained person, (RSA 627:5, I) unless the CSO has probable cause to believe that use of deadly force is necessary as provided in Paragraph D of this section.

AUTHORIZED USE OF DEADLY FORCE

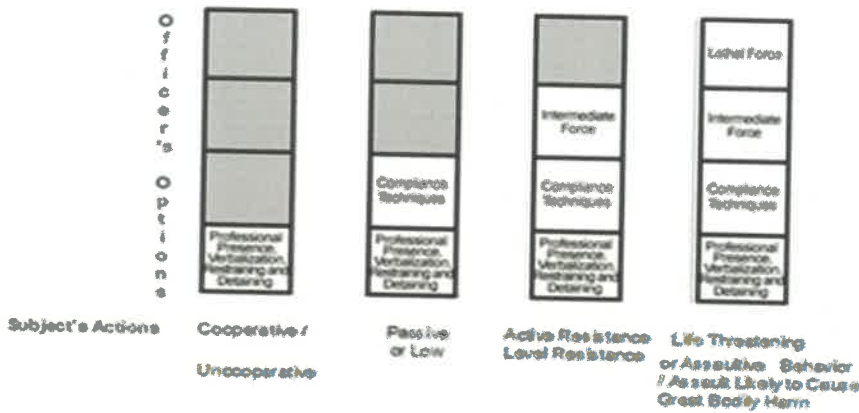
- A. A CSO is justified in using deadly force when he or she has probable cause to believe it is necessary:
 - 1. For self-defense or to defend a third person from death or serious physical harm; or
 - 2. To prevent the escape of a person who is threatening the CSO with a weapon, or who the CSO has probable cause to believe has committed a crime involving the infliction or threatened infliction of serious physical harm or poses a significant threat of death or serious physical harm to the CSO or others if not apprehended without delay; and
 - 3. The CSO has made reasonable efforts to identify him or herself as CSOs, to warn the person attempting to escape, and has reasonable grounds to believe that the person is aware of these facts. (RSA 627:5, II)
- B. Nothing in this section constitutes justification for conduct by a CSO amounting to an offense against innocent persons. (RSA 627:5, VII)
- C. CSOs are specifically NOT authorized to use firearms in the following instances:
 - 1. To fire a warning shot; or
 - 2. When a reasonable person would feel that the risk of harm to innocent persons outweighs the benefits of firing; or
 - 3. If other less drastic means exist to prevent escape or affect an arrest.

State of New Hampshire Judicial Branch

Original Release Date: 4/10/2014	Effective Date: 4/10/2014	Revision Date: 4/10/2014

D. CSOs must be aware that they operate in a relatively small and enclosed area. Firearms will not be used in a courthouse or courtroom setting unless the CSO has assessed the risk of harm to innocent persons consistent with Paragraphs B and C.

USE OF FORCE CONTINUUM



The Use of Force Continuum is a visual representation of force options used to assist CSOs in understanding the appropriate levels of force. It takes into consideration factors and actions on the part of both the officer and the subject. It should be a flexible and not a static tool on which to base decision-making.

The Use of Force Continuum should be viewed as an elevator and not a ladder. A CSO may go directly to any level of the Continuum, provided that the level of force selected is reasonable. The CSO can raise or lower the level based on the resistance encountered.

State of New Hampshire Judicial Branch

Original Release Date: 4/10/2014	Effective Date: 4/10/2014	Revision Date: 4/10/2014

CONSIDERATIONS

Factors, from both the officer's and the subject's side must be considered in deciding which level of force to apply:

- Age
- Strength
- Size
- Skills
- Numbers
- Injuries
- Exhaustion
- Threat Assessment

The reasonable use of force is always preemptive.

The cornerstone of use-of-force should be threat assessment. The basis of the reasonableness of a defense-of-life situation is whether the officer who used force reasonably perceived a threat. That is, did the officer reasonably perceive a threat at the time he/she used force and whether the force used was a response that an objectively reasonable officer might have selected? Thus, the most important use-of-force attribute any CSO can develop is the ability to recognize a threat. The goal is for CSOs to recognize an imminent threat and reasonably respond in a timely manner.

A threat is a capability to do harm joined by hostile intent. Both elements must be present for an individual to present a threat. Threat factors can be categorized as an indicator of either a capability or intent.

The intent of an individual is the more critical consideration, but recognizing and articulating the intent of someone, particularly prior to an actual assault, often is very difficult. Examples of indicators of intent include aggressive verbal and nonverbal communications, coupled with noncompliance with clear verbal commands of a CSO.

Capability indicators are easier to recognize because they are more tangible. For example, possession of, or access to, a weapon (including a CSO's weapon), a demonstrated combat ability or skill, size or fitness, or multiple subjects clearly indicate a capability to harm. The focus on cues of the individual that indicate a capability to harm, and understanding the logical inferences of those cues, is paramount.

Focusing the use of force on threat assessment prepares the CSO to make reasonable decisions on escalation and de-escalation of type and amount of force he/she selects to use when confronted with a

State of New Hampshire Judicial Branch

Original Release Date: 4/10/2014	Effective Date: 4/10/2014	Revision Date: 4/10/2014

threat or when apprehending a non-threatening subject. When an officer thoroughly understands threat assessment, he/she can recognize the existence and nature of a threat.

When there is no immediate threat, CSOs have time to consider less intrusive means of affecting the resolution of the situation. However, if a threat exists, the CSO can immediately address it without the delay caused by natural hesitation or referring to a static Continuum. A reasonable response to a violent assault is to initially consider whether deadly force is necessary. If it is not, the CSO can select a suitable non-deadly option. If deadly force is necessary, there rarely is time to consider another option—which is exactly the problem with the conventional, static Use of Force Continuum. Only when deadly force is not necessary is a CSO likely to have the luxury of a moment to consider a non-deadly force option. While the typical Use of Force Continuum can be applied to seizures of individuals who do not pose a significant threat and the “reverse” Continuum (considering deadly force first) is appropriate for confronting deadly threats, both responses (in a much simpler format) are the result of the threat assessment-based model and will naturally cause some hesitation in using force to seize non-threatening subjects—where it should be.

OTHER RESPONSIBILITY

A. **Unintentional Discharge:** When a firearm belonging to a CSO is unintentionally discharged while performing his or her security duties, the CSO/clerk of court will make a verbal report of the incident to the Security Manager as soon as possible by the most appropriate means. Local law enforcement authorities and the New Hampshire State Police will be notified. A written report of the incident, explaining in detail the complete circumstances of the unintentional discharge will follow within 24 hours for administrative review of the incident by the Security Manager. If an injury is attributable to the discharge, the firearm will be surrendered to the law enforcement officer on scene as part of an investigation into the incident. The CSO will be placed on leave with or without pay until the matter has been resolved as determined by the Security Manager. The firearm will not be returned to the CSO until a full investigation of the incident has been completed and there has been a resolution of the matter by the appropriate prosecutorial authority.

B. **Intentional Discharge:** When a firearm belonging to a CSO is discharged intentionally, a verbal report will be made by the CSO/Clerk of Court to the Security Manager as soon as possible by the most appropriate means. The local law enforcement authorities and the New Hampshire State Police will be notified immediately. The incident scene will not be disturbed. The CSO will surrender the firearm to the law enforcement officer on scene as part of the

State of New Hampshire Judicial Branch

Original Release Date: 4/10/2014	Effective Date: 4/10/2014	Revision Date: 4/10/2014

investigation into the incident. In the absence of a continuing life threatening situation, the CSO will not reload the firearm prior to turning it over to the law enforcement officer. In the event of multiple rounds being fired, the expended brass casings will be left in place pending the arrival of the officer that will conduct the investigation. The CSO will be placed on leave with or without pay until the matter is resolved as determined by the Security Manager. The firearm will not be returned to the CSO until a full investigation of the incident has been completed and there has been a resolution of the matter by the appropriate prosecutorial authority.

Coordination between the investigating agency and the Security Manager will be maintained for reporting purposes.

After reviewing facts and circumstances surrounding ANY type of firearm discharge, the Security Manager may order that the CSO involved receive a psychological examination. In addition, the CSO may be required to attend additional firearms training and re-qualify with his or her firearm before returning to duty.

REPORTING

Whenever there is an application of use of force verbalization option, a written report must be submitted to the Security Manager within seven (7) business days of the incident. If there is an application of use of force control techniques or higher, The CSO must orally inform the Security Manager as soon as practical and follow-up with a written report to the Security Manager within seven (7) business days of the incident.

ATTACHMENTS

NH RSA 627:5. Physical Force in Law Enforcement handout

Non-Deadly Use of Force Options for CSOs handout

REVISIONS

Document Revision	Description of Change	Approval	Effective Date
1	Initial Release	AOC DIRECTOR	4/4/2014

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§ 627:5. Physical Force in Law Enforcement.

I. A law enforcement officer 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 to 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.

II. A law enforcement officer is justified in using deadly force only when he reasonably believes such force is necessary:

(a) To defend himself or a third person from what he reasonably believes is the imminent use of deadly force; or

(b) To effect an arrest or prevent the escape from custody of a person whom he reasonably believes:

(1) Has committed or is committing a felony involving the use of force or violence, is using a deadly weapon in attempting to escape, or otherwise indicates that he is likely to seriously endanger human life or inflict serious bodily injury unless apprehended without delay; and

(2) He had made reasonable efforts to advise the person that he is a law enforcement officer attempting to effect an arrest and has reasonable grounds to believe that the person is aware of these facts.

(c) Nothing in this paragraph constitutes justification for conduct by a law enforcement officer amounting to an offense against innocent persons whom he is not seeking to arrest or retain in custody.

III. A private person who has been directed by a law enforcement officer to assist him in effecting an arrest or preventing an escape from custody is justified in using:

(a) Non-deadly force when and to the extent that he reasonably believes such to be necessary to carry out the officer's direction, unless he believes the arrest is illegal; or

(b) Deadly force only when he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the imminent use of deadly force, or when the law enforcement officer directs him to use deadly force and he believes such officer himself is authorized to use deadly force under the circumstances.

IV. A private person acting on his own is justified in using non-deadly force upon another when and to the extent that he reasonably believes it necessary to arrest or

prevent the escape from custody of such other whom he reasonably believes to have committed a felony and who in fact has committed that felony: but he is justified in using deadly force for such purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the imminent use of deadly force.

V. A guard or law enforcement officer in a facility where persons are confined pursuant to an order of the court or as a result of an arrest is justified in using deadly force when he reasonably believes such force is necessary to prevent the escape of any person who is charged with, or convicted of, a felony, or who is committing the felony of escape from official custody as defined in RSA 642:6. The use of non-deadly force by such guards and officers is justified when and to the extent the person effecting the arrest believes it reasonably necessary to prevent any other escape from the facility.

VI. A reasonable belief that another has committed an offense means such belief in facts or circumstances which, if true, would in law constitute an offense by such person. If the facts and circumstances reasonably believed would not constitute an offense, an erroneous though reasonable belief that the law is otherwise does not make justifiable the use of force to make an arrest or prevent an escape.

VII. Use of force that is not justifiable under this section in effecting an arrest does not render illegal an arrest that is otherwise legal and the use of such unjustifiable force does not render inadmissible anything seized incident to a legal arrest.

VIII. Deadly force shall be deemed reasonably necessary under this section whenever the arresting law enforcement officer reasonably believes that the arrest is lawful and there is apparently no other possible means of effecting the arrest.

RSA 627: 5 has been explained to me. I certify that I have read **RSA 627:5**. I understand the intent and meaning of this statute as it pertains to my authority as a Court Security Officer.

CSO Signature

Date

Print Name

Instructor's Signature

Rev 2/17/00

NON-DEADLY USE OF FORCE OPTIONS FOR CSOs

Justification for the use of non-deadly force is derived from NH RSA 627. As Court Security Officers, RSA 594:1-a grants us law enforcement authority when we are providing court security. RSA 627:5 I states:

“A law enforcement officer 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 to 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.”

In choosing to use non-deadly force, the CSO **must** use only the level of force necessary to accomplish a lawful objective. The dynamics of all encounters are different. It would be impossible to attempt to categorize and define the level of force appropriate in any given situation. It is, however, reasonable to categorize the levels of force that may be used in various degrees to effectively resolve disruptive behavior. When a CSO determines that the use of force is necessary and appropriate, the CSO shall, to the extent possible, utilize a level of force determined by the particular needs of the situation. The following are options available to the CSO:

1. CSO Presence:

Often, the presence of one or more CSOs will be enough to quell a potential or actual disturbance. Quite often, the presence of one or more CSOs is all that is necessary to quickly and effectively prevent or end a disturbance.

2. Verbal Persuasion:

The practice of courtesy in all public contacts encourages understanding and cooperation between a CSO and a customer of the court. Quite often, a display of courtesy and respect coupled with firm control of a situation will encourage cooperation and understanding on the part of the people involved. Use of common courtesy on the part of the CSO may prevent resentment and resistance from the person from whom the CSO seeks cooperation.

3. Oleoresin Capsicum (OC Foam):

The CSO may encounter circumstances where the use of mere words and/or officer presence may be insufficient to effectively deal with a situation which appears to present a danger to the CSO, the person resisting, or the public. One example would be a person who is aggressively violent and appears to have the ability to overpower the CSO. In such cases, the use of O C foam by the CSO may be the appropriate non-deadly force option needed to control the person.

4. Use of Hand Control or Physical Strength:

People who are reluctant to be taken into custody may offer some degree of physical resistance. Quite often, this resistance is passive or defensive and is not intended as an act of overt aggression toward the CSO. Normally, all that is required to overcome this type of resistance is the application of slightly greater physical force and skill in restraining the person. Good judgment is extremely important in deciding which tactics and what degree of force is appropriate to gain compliance.

When confronted with a situation that **may** necessitate the use of physical force, consideration must be given to requesting additional assistance prior to the actual encounter. Often, the presence of more than one CSO (or a CSO assisted by law enforcement) will prevent a situation from escalating to the point where the use of physical force is necessary.

Court Security Officers are called upon to exercise their authority to gain compliance from individuals whose actions pose a threat to the decorum of the judicial process. No list of procedures could possibly offer solutions for all security issues. Therefore, the above use of force **options** are presented to provide **guidance** to all Court Security Officers in preventing or quelling disruptive behavior in the judicial setting.

The above **NON-DEADLY USE OF FORCE OPTIONS** were explained to me. I have read and I understand the non-deadly force options available to me as a Court Security Officer.

CSO Signature

Date

Print Name

Instructor's Signature