



Newburyport Police Department Policies and Procedures

Subject: Use of Force	Number: Chapter 1
Category: Use of Force	Type: Policy
Effective Date: 1/5/2026	Review Date: 1/27
Amended:	
Reviewed:	
Accreditation Reference: 1.1.0, 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.1.5, 1.1.6, 1.1.7, 1.1.8, 1.1.9, 1.1.10, 1.1.11, 1.1.12, 1.1.13, 1.1.14	
Issuing Authority: <i>Per Order of Matthew W. Simons, City Marshal</i>	

I. GENERAL CONSIDERATIONS AND GUIDELINES

The purpose of this policy is to establish guidelines for Newburyport Police Department employees (sworn and civilian) for the authority to use and carry weapons, the use of physical force, de-escalation, training, and the reporting requirements if physical force is used.

II. DEFINITIONS

- **Chokehold:** The use of a lateral vascular neck restraint, carotid restraint or other action that involved the placement of any part of law enforcement officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow with the intent of or with the result of causing bodily injury, unconsciousness or death. **1.1.2(1C)**
- **Deadly Force:** Physical force that can reasonably be expected to cause death or serious physical injury. **1.1.2(1A)**
- **De-escalation tactics:** Proactive actions and approaches used by an officer to stabilize a law enforcement situation so that more time, options and resources are available to gain a person's voluntary compliance and to reduce or eliminate the need to use force, including, but not limited to, verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between the officer and a threat and requesting additional resources to resolve the incident, including, but not limited to, calling in medical or licensed mental health professionals, as defined in subsection (a) of section 51 ½ of chapter 111, to address a potential medical or mental health crisis. **1.1.2(1B)**
- **Reasonable Belief:** When facts or circumstances that the officer 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:** Bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss or impairment of a bodily function, limb or organ or (iii) a substantial risk of death. **1.1.2(1D)**

III. PROCEDURES

Section 1: Legal Authority to Use and Carry Weapons 1.1.0

The City Marshal, by city ordinance, shall have entire control of the Department under established rules and regulations subject to approval by the mayor and city council. MGL Ch. 41 § 98, authorizes police officers to carry weapons both lethal and less lethal as authorized by the City Marshal within the scope of their duties. **1.1.0(1A)**

Only sworn officers are authorized to carry authorized weapons, concealed and openly, and to use them **1.1.0(1B)** in the performance of their duties, consistent with the laws of the United States of America, the Commonwealth of Massachusetts, and the directives of the Newburyport Police Department, while acting within the scope of their duties under the authority granted to the City Marshal by city ordinance; Division 3, Section 2-352, and MGL Ch. 41 § 98.

Section 2: Use of Physical Force (1.1.1)

A law enforcement officer shall not use physical force upon another person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to: (i) effect the lawful arrest or detention of a person; (ii) prevent the escape from custody of a person; or (iii) prevent imminent harm, and the amount of force used is proportionate to the threat of the imminent harm; provided, however, that a law enforcement officer may use necessary, proportionate and non-deadly force in accordance with the regulations promulgated jointly by the commission and the municipal police training committee pursuant to subsection (d) of section 15. **(1.1.1(1))**

Officers may use reasonable force when force is used only when necessary to accomplish lawful objectives and then only when all other reasonable means to accomplish the objective have been exhausted, or are deemed to be inadequate. Force used must be based on reasonable and articulable facts or beliefs, taking into consideration the totality of the circumstances. This includes officer-subject factors, special circumstances, levels of resistance, number of officers and/or offenders present, and the availability of other options. Lethal force may be used by officers only when they reasonably believe that the action is in defense of human life, including the officer's own life, or in the defense of any person in immediate danger of serious physical injury, and all other means have been reasonably exhausted. Lethal force may not be used to prevent the escape or flight of an offender whenever such offender presents no immediate danger to the officer or any other person.

Section 3: Use of Deadly Force (1.1.2)

Parameters for the use of deadly force are outlined in MGL Part I, Title II, Chapter 6E, Sections 14 and 15, and incorporated into this policy.

Recognizing the sanctity of human life, “a law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.” **1.1.2(1B)** MGL Part I, Title II, Chapter 6E, Section 14(b)

“A law enforcement officer shall not use a chokehold. A law enforcement officer shall not be trained to use a lateral vascular neck restraint, carotid restraint or other action that involves the placement of any part of law enforcement officer’s body on or around a person’s neck in a manner that limits the person’s breathing or blood flow.” **1.1.2(2)** MGL Part I, Title II, Chapter 6E, Section 14(c)

“A law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person.” **1.1.2(3)** MGL Part I, Title II, Chapter 6E, Section 14(d)

Section 4: Duty to Intervene

“An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.” **1.1.1(3), 1.1.2(4)** MGL Part I, Title II, Chapter 6E, Section 15(a)

“An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer’s shift.” **1.1.1(4), 1.1.2(5)** MGL Part I, Title II, Chapter 6E, Section 15(b)

“The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer’s written statement shall be included in the supervisor’s report.” **1.1.1(5), 1.1.2(6)** MGL Part I, Title II, Chapter 6E, Section 15(b)

A supervisor not directly involved in the Use of Force incident will complete a report, to include the reporting officer(s)’ written statements. **1.1.1(6), 1.1.2(7)**

Law enforcement personnel shall not retaliate or intimidate law enforcement personnel who report abuse by other law enforcement personnel. Incidents of retaliation or intimidation shall be reported through the chain of command, consistent with MGL Part I, Title II, Chapter 6 E, Section 15(c).

Section 5: Warning Shots (1.1.3)

Officers are prohibited from discharging firearms for the purpose of firing warning shots.

Section 6: Use of Authorized Less Lethal Weapons (1.1.4)

Whenever any weapon is used as an impact weapon, except when lethal force is warranted, great care is to be taken to avoid striking a person in the head, neck, spine, tailbone, kidneys, or solar plexus. Strikes to these areas present a high potential for inflicting death or serious physical harm

Officers must be aware that even weapons that are classified as less-lethal weapons may, under some circumstances, be used in such a manner so as to fall within the parameters of the “Lethal Force Policy.” An officer must consider the potential consequences when any weapon is employed. An officer may employ as a weapon, in an extraordinary circumstance of necessity, a device, instrument, or process not normally classified as a weapon. All policies, procedures, and rules and regulations governing weapons and the use of force are applicable if this occurs.

A. Batons 1.1.4(A)

- a. All officers will be issued a Monadnock 22"-26" collapsible baton in black finish, constructed of high impact aluminum. All officers in uniform assigned to patrol duties or appropriate special details must carry this defensive weapon.
- b. The use of these striking implements shall be restricted to quelling physical confrontations where higher levels of force are not necessary and lower levels of force would be inappropriate or have been ineffective. Baton strike techniques may include restraint holds, defensive blocks, and strikes directed toward nerve motor points, major muscle mass, or center body mass to stop an aggressor's actions or to neutralize an attack. Striking structural areas refers to baton strikes intentionally directed to the subject's face, torso, or joint areas. Strikes intentionally directed to these areas present an increased risk of physical harm, including, but not limited to, fractures, joint separations, soft connective tissue injury and lacerations. Strikes intentionally directed to these areas are an escalation of force from strikes delivered to center mass, nerve motor points, and large muscle mass groups. Such strikes may be necessary for an officer to defend himself or herself from extreme aggression or when strikes delivered to less vulnerable areas are reasonably determined to be inadequate.

B. Chemical Defense Spray 1.1.4(B)

- a. All officers are issued Sabre Red Pepper Spray, commonly referred to as oleoresin capsicum (OC). All officers in uniform assigned to patrol duties or appropriate special details must carry this defensive weapon.
- b. OC Pepper Spray is intended for use in situations when force is necessary to control belligerent, uncooperative persons or when verbal controls are ineffective. OC can be used to control or affect an arrest on actively resisting persons. This product is designed as a viable alternative to physical contact between the officer and person(s) involved. Use of this product may greatly reduce the need for other types of physical force by the officer that could result in serious or potentially lethal injury to the officer, person(s) involved, or others present.

OC Pepper Spray is effective with most individuals, including persons under the influence of alcohol or drugs, or persons with mental health or emotional problems. The product is also effective against animals. OC Pepper Spray causes no permanent physical harm and the symptoms mentioned previously begin to dissipate without treatment in forty-five (45) minutes.

The use of OC Pepper Spray is intended to prevent injury to the person(s) involved, the officer, and other persons present. The governing factor in the use of OC Pepper Spray is whether its use is reasonable and necessary. The

use of OC Pepper Spray, as an intermediate weapon, may prevent the use of more severe physical force and may be used:

1. To affect a lawful arrest, or when an officer is threatened with physical force and other means of controlling the individual, such as verbal commands and persuasion, have been ineffective in inducing cooperation.
2. When a dangerous animal threatens an officer.
3. In cases where the combativeness and uncooperativeness of the offender indicates that the officer or the offender would be endangered by the use of other physical forces.

Since OC Pepper Spray can adversely affect individuals in the immediate area of the person against whom it is used, an officer should make every effort to avoid unnecessarily exposing bystanders. To achieve full effectiveness, two shots of OC Pepper should be sprayed directly at the eyes and face in one (1) to three (3) second bursts, if tactically feasible. Once the subject is disabled, discontinue use. Once the subject is secured, officers should begin the decontamination process, when tactically feasible, by removing them from contaminated air and placing somewhere with fresh air (securing the subject in a cruiser with the window open will meet this requirement).

Since OC Pepper Spray is a method of physical control, and may be used to overcome resistance to an officer's lawful authority, any arrest in which OC Pepper Spray is used may be considered a "resisting arrest" incident. Any use of OC Pepper Spray, contrary to the direction of this policy, can result in revocation of the officer's right to use such action and may subject the officer to disciplinary action. Authorization to use or carry OC Pepper Spray may be revoked by the City Marshal at any time.

C. Electronic Control Weapons (ECWs) 1.1.4(C)

The Department's policy on the use of Electronic Control Weapons is a separate sub-section of Chapter 1.

D. Weaponless Control Techniques (1.1.12-2B)

- a. Handcuffing
- b. Escorts or balance displacement, including pain compliance techniques or joint locks.
- c. Soft empty hand compliance techniques, including arm/wrist locks, bent or straight arm bars, close quarter personal control takedowns, etc. These techniques are designed to provide an officer with a mechanical advantage for controlling a subject or taking them to the ground for control
- d. Hard empty hand strikes to large muscle mass areas, including empty hand strikes, pushes, knee strikes, kicks, punches, elbows, etc. These strikes are designed to temporarily interrupt motor function to the target area for the purpose of overcoming active or aggressive resistance, or as a method of taking the aggressor to the ground for control.

- e. Hard empty hand strikes to structural areas, including empty hand strikes, pushes, knee strikes, kicks, punches, elbows, etc. These strikes are designed to temporarily interrupt motor function to the target area for the purpose of overcoming active or aggressive resistance, or as a method of taking the aggressor to the ground for control. The use of carotid restraint, lateral vascular neck restraints (chokehold), and similar control techniques are not authorized.
- f. Other weaponless control techniques that are tactically feasible.

Section 6: Rendering Medical Aid After Use of Force or Law Enforcement Action

(1.1.5)

Following law enforcement action, proper medical aid should be rendered as quickly as reasonably possible. This would include incidents or circumstances in which injuries have been sustained. In addition, it includes procedures for requesting emergency medical professionals when there is an obvious severe injury(s), medical distress is apparent, or when the individual is unconscious. Proper medical aid is defined as immediate first aid treatment, including CPR, administered on the scene of an incident/injury within the scope of agency personnel's training. Additionally, medical aid includes the summoning of emergency medical services to assist in any condition or treatment that may escalate outside of the scope of the capabilities of the officer/agency employee, providing immediate first aid, or requiring transportation to a medical facility based on the condition of the person receiving aid.

"proper medical aid" may include:

- increased observation of a person to detect obvious changes in their condition
- the flushing of chemical agents from the eyes of an affected person
- applying first aid within the scope and training of the officer/agency employee for any obvious severe injuries or unconsciousness
- evaluation by an emergency medical technician or paramedic, or
- for more serious or life-threatening incidents, immediate aid by medical professionals includes transportation to a medical facility.

This standard applies whether a weapon is involved or not and for all aid necessary due to police or law enforcement action(s) e.g., injuries resulting from a police pursuit crash, an OUI suspect in distress because of their intoxication or impairment, a detainee who is injured, including self-inflicted injuries, in the detention or holding facility areas of an agency, etc.

Following law enforcement action or the use of force, proper medical aid is to be provided as quickly as reasonably possible:

- A. After the use of a lethal weapon;
- B. After the use of a less-lethal weapon;
- C. When using weaponless tactics results in injury to the person subject to the use of force.
- D. When injuries are sustained as a result of law enforcement action.
- E. When a person, including a suspect or detainee, requests medical attention.
- F. When an officer is on a call for service, or during the detention or arrest of a person, and:
 - I. There is an obvious severe injury to the person.

- II. A person is in medical distress (i.e. unable to breathe, labored breathing, wheezing, etc.)
- III. A person is unresponsive or unconscious.

Section 7: Reporting Uses of Force (1.1.6)

After an employee uses force, or is present when force is used, they are required to notify the shift supervisor as soon as circumstances allow. A written report and Use of Force form are required whenever an employee:

- 1. Discharges a firearm for purposes other than training or recreational use.
- 2. Applies force using a lethal weapon, including displaying a lethal weapon for compliance.
- 3. Applies force using a less lethal weapon, including the display of a less lethal weapon for compliance.
- 4. Applies weaponless physical force against an individual.

Completed Use of Force reports must document the totality of the circumstances, including the perceived circumstances, the subject's actions, and the officer's response. Information required includes:

- 1. Basic facts of the case.
- 2. De-escalation attempts or reasons why they weren't possible.
- 3. Amount and type of force used.
- 4. Result of the use of force.
- 5. End result of the incident.
- 6. Type and extent of any injuries sustained by individuals involved in the use of force, including officers, and any proper medical aid provided.
- 7. Civilian witness demographics and statements, if applicable.
- 8. If practical, photographs of any injuries.

All Use of Force reports must be completed and submitted to the shift supervisor prior to the end of the shift. The shift supervisor, in limited circumstances, may extend this deadline. All Use of Force reports and reviews will be maintained by the Operations Lieutenant, in a locked filing cabinet in their office. **1.1.6(3), 1.1.6(4)**

Section 8: Reviewing Non-Deadly Use of Force Reports (1.1.7)

Non-deadly use of force reports will be forwarded to the supervisor for review of the incident. The supervisor will:

- 1. Review the report(s) describing the use of force, body-worn camera video, and all other related reports and statements. The supervisor will then sign off on the report.
- 2. The supervisor will complete their report into the incident, which will be forwarded to the Operations Lieutenant. This report will include:
 - a. A summary of the incident.
 - b. A review of BWC video, other available videos, and witness statements, if available.
 - c. A determination of whether the use of force was proportionate and objectively reasonable.

- d. Whether the use of force was consistent with Department policy.
- e. Training considerations or recommendations for either the individual officer or Department wide, if any.
- f. Any corrective action taken in the form of counseling, or recommendations for further disciplinary action or formal review of the incident.

3. The Operations Lieutenant will receive the report and complete an administrative review of the incident, which will be submitted to the City Marshal. The administrative review will include the following items, and make recommendations as appropriate:

- a. Whether the action was consistent with departmental policy and procedures;
- b. Tactical considerations;
- c. Training considerations to include recommended changes in an existing training programs(s) or the creation of a new program(s);
- d. Quality of supervision;
- e. Counseling or disciplinary considerations;
- f. Equipment upgrade recommendations;
- g. Post incident investigative processes and their quality;
- h. Policy and procedure considerations to include recommended changes in existing policy and procedures or creation of Policies.

4. The City Marshal will receive the administrative review of the incident, and after reviewing the reports will take appropriate action, if necessary.

5. A formal Use of Force investigation and review will be required when it is necessitated due to the extent of injury, or other special circumstances dictate.

6. If the supervisor was involved in the Use of Force incident, they will notify the Operations Lieutenant, who will assign the review to another supervisor not directly involved in the incident. (1.1.7-2)

Section 9: Reviewing Deadly Force or Serious Bodily Injury/Firearms Discharge Use of Force Reports (1.1.7)

When the supervisor becomes aware that an officer has been involved in a Use of Force incident that has resulted in the death or serious bodily injury to any person, they will immediately report to the scene of the incident. They will also notify the Operations Lieutenant and/or the City Marshal as soon as possible. After notification, the City Marshal will appoint a supervisor to investigate the incident, and report the findings directly to the City Marshal. The City Marshal or their designee will contact the District Attorney's office as appropriate, and coordinate investigative efforts.

The officer using force as outlined above will stay on scene as required, unless they require medical attention themselves, or their continued presence is inciting problems. Upon arrival of the investigator, they will take possession of the weapon, and render it safe if needed. This will be done in a manner to protect the officer from public exposure and to not put them at risk of being on-duty unarmed. If necessary, their firearm will be replaced with the supervisor's.

Supervisor's Responsibilities

Upon being notified of an incident which results in the death or serious injury to any person, or whenever any firearm is accidentally or purposely discharged and results in the death or serious injury to any person, they will immediately report to the scene of the incident and:

1. Render any weapons safe;
2. Notify the Operations Lieutenant and/or City Marshal;
3. Request appropriate resources to the scene (i.e. investigators, evidence technicians, District Attorney's Office);
4. Conduct a preliminary field investigation;
5. Provide assistance to officers involved and/or present;
6. Complete a detailed written report and Use of Force Review as outlined in Section 8: Reviewing Non-Deadly Use of Force Reports.

Lieutenant's Responsibilities

As a part of the Internal Affairs function, the City Marshal shall conduct or cause to be conducted an Administrative Investigation in each incident where the Use of Force has resulted in death or serious injury to any person, as a result of the actions taken by the officer.

The Administrative Investigation is subordinate to any necessary criminal investigation and will determine whether the officer's action was intentional or accidental, and whether the action was consistent with policy and procedure. The Administrative Investigation will also determine training considerations to include any of the following:

- The effect of training on the incident or need for revision in the training program;
- Drawing and exhibiting of a less-lethal weapon or firearm;
- Use of less-lethal weapon or firing of a firearm;
- Tactics prior to drawing/using a less-lethal weapon or firearm;
- Tactics during and following the use of a less-lethal weapon or during and following the discharge of a firearm; and
- The quality of supervision prior to, during, and following the incident.

Before interviewing or requesting written statements the Administrative Investigator shall advise the officer of his rights in an Administrative Investigation. These rights include:

- The right to know that the investigation is normally confined to the specific incident;
- The right to know whether or not he/she is suspected of misconduct and if so, what possible disciplinary action could ensue if the misconduct is sustained;
- That refusing to answer questions shall be grounds for disciplinary action, including possible dismissal;
- That the results of the internal investigation interviews will not be used against an officer in any subsequent criminal proceeding;
- That interviews, as much as practical and depending on the need, will be conducted during the officer's on duty time;
- That the officer shall, upon request, be provided with a copy of any statement given by them;
- That if there is a possibility of criminal charges being brought, the Administrative Investigator will not conduct the criminal investigation;
- The criminal investigation is separate from the administrative investigation; and
- When appropriate, any indications of equipment failure or inadequate equipment being involved in the incident.

Based on the above requirements, the Administrative Investigator will prepare a detailed report about the incident. This detailed report will be forwarded through the chain of command to the City Marshal and shall include the investigator's recommendation for any remedial training, counseling, or disciplinary action. The report also may contain any recommendation as to a need for a new training program(s), changes in existing training program(s), or review of existing Policies, or equipment upgrades.

Criminal Investigation

A thorough criminal investigation will be conducted into every Use of Force incident by a police officer, which results in death or serious injury to any person or any traffic crash which results in serious injury or death in which there is reasonable suspicion to believe that criminal conduct on the part of the officer was involved. Investigations into police Use of Force incidents will commence on the scene as close in time to the incident as possible. At the discretion of the City Marshal, similar investigations may be conducted into less serious Use of Force incidents and traffic crashes which involve officers of this department. Criminal investigations of police shootings, Use of Force incidents, and traffic crashes will be conducted by an investigator appointed by the City Marshal. If required by statute the investigation may be done by the State Police, the District Attorney' Office, or the Attorney General's Office.

In most cases, one of the Lieutenants will be named as the primary criminal investigator. However, other officers may be named to assist in the criminal investigation dependent on the individual case and its complexity. The appointed criminal investigator(s) shall proceed immediately to the scene, when notified, and take charge of the scene.

The on-duty Shift Supervisor or Officer-in-Charge will report to the scene of all such incidents and act as the Scene Commander of all such incidents until relieved by the assigned investigator or superior officer. The on-duty Shift Supervisor or Officer-in-Charge is responsible for securing the scene and preserving the evidence at the location of the incident until the assigned investigator arrives and the investigation is formally turned over to him/her. Any officer, regardless of rank, shall assist as requested by the investigator assigned to conduct such an investigation.

The appointed investigator shall take possession of the firearm or weapon involved in the Use of Force incident as soon as it is practical to do so, be it a Department issued duty handgun or other authorized weapon. The investigator should not take the firearm or weapon from the officer immediately at the scene if it will leave that officer unarmed and in a position of danger. In such cases if it is vital to immediately take the firearm the investigator should make arrangements to immediately replace that firearm by giving the involved officer his/her firearm temporarily, taking the officer to the Department to receive the firearm, or some other reasonable alternative. Additionally, whenever possible, to reduce trauma, the investigator should avoid taking the officer's firearm in public view unless absolutely necessary to preserve the evidence. It is generally considered a better alternative to take custody of the firearm in a private location, out of public view. The investigator shall attempt to remove the involved officer(s) from the scene as soon as possible. This is all dependent on the individual case. When the officer's firearm/weapon is taken into custody by the investigator he/she shall prepare a receipt for the officer describing the firearm/weapon. If the weapon is a firearm the description should include the make, model, caliber, and serial number. Each shall retain a copy of the receipt, initialed by the officer and the investigator.

The investigator will examine the firearm(s) of all officers present at the scene when shots were fired to include secondary firearms and firearms in police vehicles. If a less-lethal weapon was used, the investigator will examine all weapons of those officers present at the scene where the incident occurred.

The appointed investigator shall conduct a thorough investigation of the Use of Force incident and will prepare a detailed report containing all factual findings and conclusions relevant to the incident. Reports and statements will be taken from all officers and witnesses. The assigned investigator is responsible for separating, securing, and interviewing all on-scene witnesses to the incident. The investigator will determine if the Use of Force resulted in injury to any persons or property.

When investigating incidents involving a firearms discharge, the investigator will attempt to account for each round fired and to determine the path and terminus of each, including fragments. He/she will seize samples of unspent ammunition from those officers who have fired their weapons. He/she will seize the firearms and weapons, which may have been used for the purpose of obtaining ballistic samples in accordance with previously outlined procedures above.

If any person is injured or struck by the discharge of a firearm, the investigator will detail the location and severity of each wound. The investigator will recover and preserve all pertinent physical evidence. If appropriate, the investigator will cause photographs, measurements, diagrams, and sketches to be prepared. The investigator shall conduct, or order conducted any other investigatory processes or procedures deemed necessary. The assigned investigator will be responsible to secure prosecution of suspects involved in the shooting incident.

All assigned investigators of the police shooting will abide by all guidelines outlined in other process and the police officer's labor agreement in the investigation of the incident and the interviewing of police officers. All officers and Department personnel involved in an officer-involved shooting or other Use of Force Incident will cooperate fully and completely with the assigned investigators, sharing all information with the investigators.

The investigator shall avoid having any of the officers involved in the incident conduct any investigation and/or interviews relevant to the incident. The investigator shall ensure that the involved officer(s) is transported to a nearby hospital within two hours of the incident for the collection of blood and urine specimens, and that the samples are submitted for analysis in order to detect any alcohol and/or drugs. The investigator shall be responsible for obtaining hospital, autopsy, laboratory, and photographic reports.

During a criminal investigation into a Use of Force Incident, prior to interviewing or requesting written statements from the involved officer(s), the investigator shall advise the officer(s) of his/her Constitutional Rights. The assigned investigator shall submit the criminal investigation report through the chain of command and shall be responsible for presenting the case to the prosecutor in those instances where appropriate.

All incidents, which involve serious injury or death to a person as a result of discharging of a firearm or use of any lethal weapon, will be presented to the District Attorney's Office for review. If it is determined that departmental personnel may be charged with a crime as a result of the Use of Force incident, the City Marshal will coordinate the Department's activity in this regard with the respective District Attorney.

Use of Force Report and Investigation Review by the City Marshal: Formal Incidents

All Use of Force reports that resulted in the death or serious injury of another (both Administrative and Criminal Investigations) will be submitted to the City Marshal for review.

Copies of all investigative reports, sketches, pictures, etc., of the incident under investigation will be forwarded through the chain of command as soon as possible. The City Marshal will review all reports and findings from the Use of Force incident and determine whether the actions of the officer(s) involved in the incident were justified and in compliance with department policy. If the City Marshal determines that a Use of Force incident is not within policy and remedial training, counseling and/or disciplinary action is warranted, the City Marshal will institute such procedures in accordance with Department Policy. The City Marshal will report to the officer(s) involved, the Shift Supervisor or Officer-in-Charge, and Lieutenant their findings, in writing, at the conclusion of each Use of Force incident review submitted to his office.

Throughout the course of the investigation, officers will not be denied their due process rights and will be notified of any specifications of violations of Department policy, procedure, rule or regulation, ordinance or law against them. Officers shall be periodically advised as to the current status of the investigation and review, and provided the results of the conclusion of the investigation and review.

After the investigation of the incident has been completed by the City Marshal or his designee, they may confer with the City Solicitor, the Mayor, and District Attorney's Office. If appropriate, the findings of the investigation will be turned over to the District Attorney's Office.

Section 10: Removal from Line of Duty Assignment/Use of Force (1.1.8)

It is the policy of the Newburyport Police Department to remove from operational assignments any employee whose Use of Force results in a death or serious physical injury, pending an administrative review of the incident.

This review will take place as soon as reasonably practical following the incident. During the period of time the investigation into the incident is being conducted, the employee will attend at least one mental health counseling session by a mental health clinician chosen by the Department. Additional sessions may be required.

While the review is taking place, this leave is considered to be an administrative leave, and is not considered to be a suspension or disciplinary in nature. While on administrative leave, the employee will remain available for official Department business, to include interviews and statements regarding the incident. The employee should refrain from speaking with anyone except:

1. Department personnel assigned to the investigation;
2. Personnel from the District Attorney's Office;
3. Other personnel approved or required by the City Marshal;
4. The employee's private attorney, mental health professional, clergy, union representatives, and their immediate family.

Upon returning to duty, the employee may be assigned to administrative duty for a period of time as determined by the City Marshal. This alternative may also be exercised instead of administrative leave where the City Marshal deems it appropriate, and the employee requests it.

Section 12: Authorized Weapons and Ammunition (1.1.9)

Only weapons and ammunition authorized and approved by the City Marshal can be carried and used on and off duty by Newburyport Police Department personnel to perform their duties and responsibilities (1.1.9(1, 2)).

The City Marshal has authorized the following weapons and ammunition:

1. Lethal Weapons- Handguns
 - a. The primary issued handgun is the Glock Model 17 9MM, semi-automatic pistol with 3, 17 round magazines. All sworn officers are required to carry this firearm while on duty.
 - b. The City Marshal may also issue a secondary weapon, the Glock Model 19 9MM semi-automatic pistol or the Glock Model 26 9MM, semi-automatic pistol, to appropriate personnel, including Inspectors and Lieutenants.
 - c. The Department will issue 9MM, 124 grain +P jacketed hollow point for duty ammunition.
 - d. The Department will issue 9 MM, 124 grain full metal jacket for training ammunition.
2. Lethal Weapons- Rifles
 - a. The primary issued rifle is the AR-15 style rifle chambered in 5.56/.223 equipped with red dot optics. All sworn officers who are qualified to carry this firearm are required to do so while on duty, when assigned to a cruiser that is equipped with the appropriate secure storage.
 - b. The Department will issue 223 REM soft point 55 grain for duty ammunition.
 - c. The Department will issue 223 REM full metal jacket 55 grain for training ammunition.
3. Lethal Weapons- Shotgun
 - a. The primary shotgun is a Remington 12-gauge pump shotgun. Shotguns are stored in the supervisor's cruiser in the trunk vault, and utilized only by qualified officers.
 - b. The Department will issue Winchester Ranger 00 buckshot shells or Winchester Ranger 12 gauge rifled slugs for duty and training ammunition. The specific situation will determine which round is utilized.
4. Electronic Control Weapons
 - a. The issued electronic control weapon is the TASER 10 device in yellow.
 - b. The Department will issue the TASER 10 Standard Duty Magazine with 10 probes.
 - c. All sworn officers assigned to patrol will carry an ECW. The City Marshal may waive this requirement at their discretion.
5. Baton
 - a. All sworn officers will be issued a Monadnock 22"-26" auto-lock baton. All sworn officers regularly assigned to patrol duties will carry the baton. Alternate lengths may be issued as appropriate.
6. Oleoresin Capsicum (OC) Spray
 - a. All sworn officers will be issued and carry while assigned to patrol Sabre Red mist 10% oleoresin capsicum spray.

Section 13: Review, Inspection, Approval of Weapons/Removal of Unsafe Weapons (1.1.9 7-9)

1. All weapons will be inspected by a qualified weapons instructor or armorer prior to carrying during the initial issue, as well as during the re-qualifications.

Inspections will include a function test, to ensure that the weapon is in good working order. During the formal equipment inspections weapons will also be inspected and recorded on the Equipment Inspection report by the supervisor, who will submit it to the Administrative Lieutenant.

2. All officers who are issued City-owned firearms are responsible to keep the weapon in good working order. Officers are responsible for the care and the cleaning of their handguns and may disassemble the handgun for routine cleaning functions as instructed by the Departmental Armorer or Firearms Instructors. No one is to work or permit anyone to work on a City-owned firearm or privately owned authorized secondary firearm except a qualified armorer employed by the Newburyport Police Department. All servicing of all City-owned firearms will be conducted through the Department Armorer. All maintenance performed on, or problems with, any firearms owned by the Newburyport Police Department will be documented and kept by the Department Armorer.
3. If an officer sustains the loss of, or damage to, any authorized weapon, it is to be immediately reported to the on-duty supervisor. Additionally, a written report detailing the loss or damage shall be prepared by the officer and submitted through the chain of command to the City Marshal via a police report.
4. If repair, alteration, or modification is performed or required on a department issued firearm/weapon it becomes an unauthorized firearm/weapon until inspected and re-approved by the Department Armorer and the City Marshal. The nature of any such repair, modification, or alteration and who performed it is to be detailed in writing and submitted to the Department Armorer and City Marshal so that it may be attached to the firearms authorization documentation.
5. A record will be maintained of each authorized weapon (lethal and less-lethal) approved for official/on-duty use, which will include the serial number and the name of the person assigned the weapon.
 - a. Records for firearms will be stored electronically.
 - b. Records for TASERs will be stored in Evidence.com
 - c. Records for other weapons will be maintained by the Administrative Lieutenant.

Section 14: Safe and Proper Storage of Firearms (1.1.9 11)

1. Whenever an officer is in the department and removes his/her handgun, the handgun must be secured in a locked area that is not readily accessible to civilians, suspects, victims, or witnesses. Handguns or other weapons are to be placed in a locked locker, a locked room or in a handgun security locker so that they are not readily accessible to unauthorized persons.
2. Except for general maintenance, storage, or authorized training, officers will not draw or exhibit their firearm unless the circumstances create a strong suspicion to believe that it may be necessary to lawfully use the weapon in conformance with other sections of this order. All general maintenance must be done in the Department armory, or an area designated by the Department Armorer, at an approved range, or under safe conditions at the officer's residence.

3. No person other than a Newburyport Police Officer shall be permitted access to any Department-owned firearm, except for repair or maintenance as approved by the Department Armorer or with the express permission of the City Marshal. Officers will secure and store firearms both on and off duty in such a way as to ensure that no unauthorized person will have access to or gain control over the firearm. Officers will secure the firearm in accordance with MGL Chapter 140 § 131L. All departmental firearms kept at home must be secured in a safe place, which is unavailable to family members, especially children.
4. No weapon shall be taken from the department arsenal without the authorization of the Shift Supervisor or Officer-in-Charge. No weapon may be removed by personnel not authorized and qualified to use the weapon.
5. Officers shall not carry or use any firearms while impaired by alcohol or drugs.
6. Patrol Rifles
 - a. Each officer shall carry a Department patrol rifle in their assigned cruiser when one is available, and the officer is trained and authorized to do so. When cruisers are not assigned to a patrol shift, rifles will be stored in the armory or gun locker in dispatch.
 - b. At the beginning of each shift, each officer shall inspect the rifle and magazine for functionality, as well as red dot sights and flashlight. The rifle will be secured in the cruiser's rifle rack in transport mode (magazine inserted, bolt forward, no round in the chamber, weapon on safe).
 - c. At the end of each shift, each officer will remove the rifle from their cruiser, remove the magazine, clear the rifle in the clearing barrel, and render it safe. The rifle will then be returned to the gun locker in dispatch. A hand to hand exchange may be conducted with an oncoming officer. The oncoming officer will inspect the rifle and prepare for transport as outlined above.
 - d. Officers shall not leave a rifle in a cruiser at the end of their shift, and rifles shall not be left in cruisers that is not assigned on duty. Any discrepancies will be immediately corrected and reported to the supervisor or officer in charge.

Section 15: De-Escalation Training 1.1.1(2)

All newly hired sworn officers (part-time and full-time) will receive pre-service training on de-escalation. All sworn officers will receive annual training on de-escalation.

Section 16: Demonstrating Proficiency with Weapons (1.1.10)

Only personnel who have demonstrated proficiency in the use of agency approved lethal and less lethal weapons shall be approved to carry those weapons. (1.1.10-1) Demonstrated proficiency will include but not be limited to the following criteria:

- Demonstrating knowledge of laws regarding the use of force;
- Demonstrating knowledge of Departmental policy and procedures regarding the use of force and authorized weapons;

- Demonstrating familiarity and recognized safe handling procedures for the use of authorized weapons;
- Satisfactory completion of any classroom training with authorized weapons;
- Satisfactory completion of any practical training with authorized weapons;
- Achieving a satisfactory rating on a prescribed practical proficiency course for authorized weapons used;
- Only those firearms which the officer qualifies with are authorized for carry on or off duty;
- Only officers trained with the expandable baton are authorized to carry/use it;
- Only officers trained with the electronic control weapon are authorized to carry/use it;
- Only officers trained in OC Spray are authorized to carry/use it.

Section 17: Annual Proficiency Training on Lethal Weapons and Electronic Control Weapons (1.1.11)

The Newburyport Police Department conducts all training on lethal weapons and electronic control weapons in accordance with the requirements set forth by the MPTC.

1. All personnel who are authorized to carry a lethal weapon/firearm or less lethal will receive:
 - a. annual training on the Newburyport Police Department's Use of Force policies, including any directives specific to lethal weapons/firearms that are approved for use. (1.1.11-1A)
 - b. annual proficiency testing on all lethal weapons/firearms approved for use. (1.1.11-1B)
2. All personnel who are authorized to carry an electronic control weapon will receive:
 - a. annual training on the Newburyport Police Department's electronic control weapons policy. (1.1.11 2A)
 - b. annual proficiency testing on electronic control weapons. (1.1.112B)
3. N/A
4. All training and proficiency testing on lethal and less lethal weapons with an annual training requirement will be documented. (1.1.11-4)
5. All training and proficiency testing on lethal and less lethal weapons with an annual training requirement is to be conducted and monitored by an instructor certified for each weapon. (1.1.11-5)
6. All training and proficiency standards are based on the requirements set forth by the MPTC. Any officer who fails to demonstrate proficiency:
 - a. On a handgun will be removed from official duty until they have completed remedial training and satisfied the qualification requirements;
 - b. On a rifle/shotgun will no longer be authorized to carry a rifle/shotgun until they have satisfied the qualification requirements;
 - c. On an electronic control weapon will no longer be authorized to carry an electronic control weapon until they have satisfied the qualification requirements.
7. Remedial training is required:

- a. for any officer who is unable to qualify with the handgun. They are not authorized to resume official duties until they have satisfied the qualification requirements; (1.1.11-7)
- b. for any officer who is unable to qualify with the rifle, shotgun, or electronic control weapon. If after remedial training they are unable to satisfy the qualification requirements, they will not be authorized to carry that particular weapon until the qualification requirements have been met.
- c. For any officer who has an accidental discharge or otherwise demonstrates unsafe handling of weapons.

Section 18: Biennial Training Defensive Tactics (1.1.12)

The Newburyport Police Department conducts all training on less lethal weapons and weaponless control techniques in accordance with the requirements set forth by the MPTC.

- 1. All newly hired sworn officers who are authorized to carry a less lethal weapon are required to receive and have documented initial training and proficiency testing prior to carrying any less lethal weapon or for weaponless control techniques prior to assuming any duty with the authority to make an arrest:
 - a. On all less lethal weapons approved for use;
 - b. On all weaponless control techniques approved for use.
- 2. All sworn personnel who are authorized to carry a less lethal weapon are required to receive and have documented initial training and proficiency testing at least biennially (every two years) for weapons that do not have an annual training requirement:
 - a. On all less lethal weapons approved for use (baton and OC);
 - b. On all weaponless control techniques approved for use.
- 3. All training and proficiency testing on less lethal weapons and weaponless control techniques are to be conducted by a certified instructor.
- 4. All training and proficiency standards are based on the requirements set forth by the MPTC. Any officer who fails to demonstrate proficiency through testing/qualification for any less lethal weapon that they are authorized to carry and use or for weaponless control techniques will be removed from official duty until they have completed remedial training and satisfied the qualification requirements.
- 5. Remedial training is required for officers who are unable to qualify/demonstrate proficiency with a less lethal weapon that they are authorized to carry or for the use of weaponless control techniques prior to resuming official duties.

Section 19: Issuing Written Directives (1.1.13)

- 1. All newly hired employees who are authorized to carry/use any weapon will be issued a copy of the Newburyport Police Department's Use of Force policies prior to being authorized to carry and use a lethal or less lethal weapon.
- 2. All newly hired employees who are authorized to carry/use any weapon will receive instruction/training (in addition to issuance) on the Newburyport Police Department's Use of Force policies prior to being authorized to carry and use a lethal or less lethal weapon.

3. Whenever a new type of weapon (lethal or less lethal) is authorized for use by employees who are authorized to carry/use the new weapon, they will receive a copy of the agency's Use of Force policy(s) applicable to the new weapon prior to being authorized to carry and use it.
4. Whenever a new type of weapon (lethal or less lethal) is authorized for use by employees who are authorized to carry/use the new weapon, they will receive instruction/training on the Newburyport Police Department's Use of Force policy(s) applicable to the new weapon prior to being authorized to carry and use it.

Section 20: Use of Force Analysis (1.1.14)

1. The Newburyport Police Department will conduct an annual analysis of the Use of Force reports.
2. At a minimum, the following data is reviewed and analyzed:
 - a. The date and time of incidents;
 - b. The type of force or type of weapon used (if applicable);
 - c. The types of encounters resulting in the use of force;
 - d. The race, age, and gender of the subjects involved; and
 - e. Documenting any injuries (to subjects, agency employees, and others involved).
3. The annual analysis will be conducted by the Operations Lieutenant, and documented in a written report to the City Marshal, with results summarizing findings on any patterns or trends identified.
4. The analysis will include a finding on whether any changes are needed in agency policies, practices, equipment, or training.