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		Subject: Use of Force					
		Issuing Authority: David Fallon Chief of Police		Signature: 		Effective Date: March 19, 2015	
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Purpose

The purpose of this policy is to outline the protocols that must be followed whenever officers exert any degree of force in the performance of duty. This policy describes the narrow parameters under which deadly force is authorized, such as the circumstances when officers may legally discharge a firearm in the performance of their duties, and the guidelines officers must follow when exerting any degree of force.

The Somerville Police Department places the highest value on the life and safety of its officers and on the safety of the public. The department's regulations and policies and procedures are designed to ensure that this value guides officers in the use of force.

Officers may be confronted with situations requiring the use of force to make an arrest or ensure public safety. Whether to use force, and at what level, whether maximum or minimum, is dependent on circumstances surrounding the situation. The serious consequences of the use of force, including the use of firearms by police officers, necessitate the specification of limits of officer discretion. It is imperative that every effort be made to ensure that the use of a force is not only warranted but also reasonable and necessary.

Policy

Police officers shall use only that force that is reasonable and necessary. Every use of force must be justified. Unnecessary use of force can never be justified. Force can only be used to overcome resistance directed against an officer or to protect the safety of another, and its use shall be with a high degree of restraint. [1.3.1]

Use of Force Training:

At least annually, all sworn-officers, special officers, and auxiliary officers authorized to carry lethal weapons are required to receive in-service training in the use of force, and the use of force

reporting requirements. They must demonstrate proficiency with all approved lethal weapons and electronic controlled weapons.

In-service training for other less-lethal weapons and weaponless control techniques shall occur at least every two (2) years. [1.3.11(b)]

Authorization to Carry Firearms:

Under Massachusetts General Laws, Chapter 41, Section 98, a police officer is authorized to carry an issued or authorized firearm at all times when on-duty and may carry such firearm while off-duty within the Commonwealth of Massachusetts, except when these privileges have been suspended and/or revoked by the department or the court. See policy on Domestic Violence by Police Employees.

No policy or procedure for deadly or less-than-deadly force can possibly cover every situation. Officers of the department are expected to respond to all emergencies decisively, using the highest level of judgment, restraint, and professional competence, whatever the level of necessary force. Before an officer is authorized to carry a firearm, the officer will receive instructions in the department regulations, and policies and procedures concerning the use of force. Officers receiving this instruction must use only Municipal Police Training Committee recommended standards. An annual review of this policy will be conducted and documented by department-certified firearms instructors according to the approved training policy. [1.2.2] [1.3.11]

Definitions:

Deadly Force: Is that degree of force likely to result in death or serious physical injury. The discharge of a firearm is an example of the use of deadly force. [1.3.2]

Non-Deadly Force: Is the force that is neither likely nor intended to cause serious physical harm or death. This includes the use of approved defensive/physical tactics, approved chemical substances, i.e., O.C., Taser (Electronic Control Weapon), restraint devices, and baton.

Reasonable Amount of Force: The reasonable amount of force is the least amount of force that is reasonable and necessary to achieve a lawful objective.

Reasonable Belief: Are known facts and circumstances that would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Serious Bodily Injury: This is a bodily injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment.

Electronic Control Weapon/Taser: Electronic Control Weapon (ECW): A less lethal weapon designed to disrupt an individual's central nervous system by means of deploying battery-powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

Procedures

1. Use of Force Model

The objective of the use of force is to maintain and/or reestablish control over a situation. Officers will use only the force reasonable and necessary to accomplish lawful objectives. The degree of force used is dependent upon the amount of resistance or threat to the safety of the public or to the officer. Control is reached when a person complies with demands, or the person is restrained or apprehended. The officer must be prepared to use the force options that are reasonable for the circumstances and must strive to deescalate the level of force whenever possible. [1.3.1]

2. Use of Force Model [1.3.4]

<u>Reasonable Officer's Perceptions</u>	<u>Level</u>	<u>Reasonable Officer's Tactics</u>
<u>Compliant</u>	Level 1	<u>Cooperative Controls</u> Verbal Communication, Officer Presence
<u>Resistant</u> (Passive)	Level 2	<u>Contact Controls</u> Touch Techniques, Escort Position
<u>Resistant</u> (Active)	Level 3	<u>Compliance Techniques</u> OC, Control and Restraint Techniques, K-9 Presence and Bark
<u>Assaultive</u> (Bodily Harm)	Level 4	<u>Defensive Tactics</u> Baton, Beanbag Munitions, Taser, K-9 Bite-and- Hold, 40mm Launcher
<u>Assaultive</u> (Actual/Threatened Serious Bodily Harm, or Deadly Force)	Level 5	<u>Lethal Force</u> Firearms

3. Amount and Degree of Force

A. The amount of force used shall be no greater than is reasonable and necessary to accomplish lawful objectives. The amount and degree of force which may be employed will be determined by the facts and the surrounding circumstances, including but not limited to:

1. The nature of the offenses
2. The behavior of the individual
3. Actions by third parties who may be present
4. Physical odds against the officer
5. The feasibility or availability of alternative actions

4. Calls for Assistance When Possible

An officer acting alone may be required to resort to a much greater degree of force than would be necessary if another officer or officers had been present. Therefore, when feasible, or unless directed by a supervisor (active school shooter), an officer responding to a call which may require the use of force, should ensure appropriate backup will be available.

5. Non-Deadly/Less-Lethal Force

- A. **Level 1:** (Presence/Appearance/Verbal Communication) The image that an officer conveys can in many cases influence the outcome of the situation. The officer should be neat and well-groomed. The officer should be mindful of body language, always maintaining the highest level of vigilance. Effective verbal communication can often reduce or manage anxious, aggressive, and/or violent behavior. The appropriate uses of verbal persuasion can in some cases prevent, and/or minimize the need for physical force.
- B. **Level 2:** (Touch Techniques) This application is appropriate when the individual's physical resistance is minor, not hazardous, and can be easily controlled. Examples of this are guiding a cooperative subject into a handcuffing position, out of a vehicle, or into another room.
- C. **Level 3:** (OC/Control and Restraint Techniques) Chemical agents should **not** be used if touch techniques would achieve the same result. Chemical substances may be used in self-defense or defense of another. They may also be used to subdue a person who physically resists arrest or to discourage persons engaged in violent conduct. They may be used with the individual who resists initial physical contact, shows signs of imminent physical resistance, or when a physical confrontation would be necessary in self-defense or in defense of another. The use of physical restraint or hand controls is appropriate when the encountering resistance to verbal commands in conjunction with overt and aggressive behavior. [1.3.9]
- D. **Level 4:** (Baton) The baton may be used by an officer in self-defense or defense of another. It may be used when necessary to subdue a person who physically resists arrest or to stop a person engaged in violent conduct. Its use may also be considered when lesser methods have failed or would be obviously futile. The department has authorized the use of the Monadnock Expandable Baton. Annual recertification is provided for all officers by the Municipal Police Training Committee during in-service training. [1.3.9]

6. Circumstances Warranting Non-Deadly/Less-Lethal Force

- A. When necessary to preserve the peace, prevent the commission of crime, or prevent suicide, or self inflicted injury. [1.3.4]
- B. When necessary to overcome resistance to arrest, to conduct searches and seizures, and to prevent escape from custody.
- C. When in self-defense, or in defense of another against unlawful violence to his/her person or property.

7. Level 5 (Firearms/Deadly Force)

The following describes the use of issued and approved firearms and ammunition and the approved training techniques. These weapons and techniques will be in compliance with criteria established by statute and case law. These apply to self-defense or the defense of another.

- A. Only firearms issued by the department or authorized in writing by the Chief shall be carried by officers while on-duty. The Armorer shall maintain a written list of all approved weapons approved by the agency for official use.
- B. Members of Northeastern Mass Law Enforcement Council (NEMLEC) are authorized to carry other weapons authorized by NEMLEC.
- C. An officer shall not modify his/her firearm, holster, or ammunition in any way without the express, written permission of the Chief or his/her designee. The Firearms Instructor/Armorer will maintain records of issued and authorized weapons.
- D. Officers shall not carry a backup firearm unless express, written authorization is provided by the Chief. If authorized by the Chief, an officer can carry a backup firearm pursuant to the following:
 - 1. Firearm should be of standard industry quality
 - 2. Firearm should be of a caliber not smaller than .380 caliber
 - 3. Ammunition must be expressly written and authorized [1.3.9(b)]
 - 4. Firearm shall be concealed at all times.
 - 5. Firearm must be registered, as to make, model, and serial number, with the department Armorer.
 - 6. The officer must qualify with weapon at annual firearms qualification and records of qualification must be maintained and secured by the department Armorer.

8. Authorized Lethal Weapons [1.3.9]

A. Firearms:

- 1. Sig Sauer Model 229R DAK 40 caliber (Handgun)
- 2. Remington Shotgun 870/12 gauge (Shotgun)
- 3. Colt M16 5.56 mm/AR15, Colt M16A1 5.56mm (Patrol Rifle)
- 4. Hydra-Matic Div. G.M. Corp M16A1 5.56mm (Patrol Rifle)
- 5. Bushmaster XM-15-E2S .223/5.56mm (Patrol Rifle)

B. Ammunition:

1. Handgun – 40 caliber Winchester Ranger T-Series 165 grain jacket hollow point
2. Patrol Rifles – .223 caliber and 5.56mm 55 grain full metal jacket, Hornady 223 Rem. TAP Urban 55 grain, Winchester Ranger 223 Rem. 64 grain Power Point
3. Shotgun 12 Gauge – 00 buck and rifled slug, beanbag, OC ball, rubber pellet

9. Authorized Less-Lethal Weapons

- A. Oleoresin Capsicum Spray
- B. Monadnock AutoLock Expandable Baton 22 Inch
- C. Taser M26C and X2
- D. Less-Lethal Shotgun Super Sock Ammunition (Beanbag)
- E. 40mm Launcher

10. Proper Training

Weapons may only be used in accordance with department-approved training. Officers must have updated certifications in order to carry or use. [1.3.4]

11. Authority to Carry and Use Firearms

Only those officers who have received specific training and **demonstrated proficiency for the specific weapons—lethal and less-than lethal**—are authorized to use those department-approved weapons. They must have demonstrated proficiency in firearms by achieving minimum scores on a prescribed course, demonstrating knowledge of the laws concerning the use of firearms, and safe-handling procedures. The Range Officer shall coordinate this necessary training with the Training Lieutenant. All firearms training shall be in accordance with Municipal Police Training Committee standards. [1.3.10]

12. Safe Handling/Security of Firearms

Officers shall be responsible for the safe handling of firearms at all times.

- A. Officers shall follow the three (3) rules of gun safety:
 1. Always keep the gun pointed in a safe direction.
 2. Always keep the finger off the trigger until ready to shoot.
 3. Always keep the gun unloaded until ready to use.

B. Officers shall be cognizant of the target and what is beyond by:

1. Being aware of the identified target beyond any doubt.
2. Being aware of the area beyond the target.
3. Never firing in a direction in which there are innocent bystanders or any other potential for mishap unless there is no alternative for self-protection or the protection of others from grievous injury or death.

C. Officers shall ensure the security of firearms at all times, both on and off-duty. Firearms must be secured in such a manner as to prevent theft and unauthorized/accidental use.

13. Firearms to be Carried While On-Duty

Officers shall carry the department-issued firearm and ammunition whenever on-duty or when working any assignment, including detail assignments.

14. Authorization to Carry Firearms While Off-Duty

Unless prohibited by the Chief, officers are authorized to carry department-issued weapons and ammunition while off-duty. Officers are encouraged to carry the department issued-firearm when they choose to carry a firearm while off-duty. This policy shall not be interpreted as restricting any officer, who possesses a valid "License to Carry a Firearm" from carrying any firearm under conditions of law while off-duty. [1.3.9]

15. Weapons Security/Maintenance

- A.** Officers of the department shall take reasonable precautions to ensure that weapons issued to them or under their control, are protected against misuse. All officers shall adhere to all laws governing the safety and security of firearms. (Massachusetts General Law Chapter 140 Section 131K shall apply). [1.3.9(f)]
- B.** Officers are responsible for keeping issued-weapons clean, in good working order, and free of rust. A weapon which malfunctions shall be immediately returned to the department Armorer. The Department Armorer shall report to the Chief all evidence of neglect and/or unauthorized modification to department weapons. [1.3.9(d)(f)]

16. Use of All Firearms/Off-Duty

The policies and procedures contained in this policy shall apply to the use of firearms regardless of the officer's duty status.

17. Carrying Firearms While in Plain Clothes

No officer of the department dressed in civilian clothing shall carry his firearm in such a manner that will attract attention or will be in open view **unless** he/she is displaying a badge in close proximity to the firearm.

18. Drawing/Displaying of Firearms

Officers **shall not** draw or display their firearm, unless there is justification for its use to accomplish a police purpose. An officer may draw and display his/her firearm to make an arrest or investigate a situation that the officer has reasonable cause to believe may develop into **danger to life or serious bodily injury** to him/her or another. Any officer who draws or displays a weapon, which is directed at an individual, shall file a [Use of Force Report](#) in compliance with the policy on Use of Force Reporting.

19. Use of Firearms/Deadly Force [1.3.2]

- A. An officer **shall not** use deadly force to apprehend a fleeing felon **unless**:
 - 1. The felony involved the use or threatened use of deadly force.
 - 2. The escape would result in imminent death or serious bodily injury to the officer or another if apprehension was delayed.
- B. An officer **shall not** discharge a firearm to threaten or subdue persons whose actions are destructive of property, or harmful only to them, unless such actions constitute an imminent threat of death or serious bodily injury to the officer or others.
- C. An officer **shall not** discharge a firearm at a moving vehicle, unless there is an imminent threat of death or serious injury to the officer or others. [41.2.2]
- D. An officer **shall not** discharge a firearm from a moving vehicle.
- E. An officer encountering a situation where the use of deadly force is necessary shall, if circumstances and safety considerations allow, issue a verbal warning first. The preferred verbal warning is **“Police Don’t Move.”**
- F. An officer encountering a situation where the officer can anticipate a hostile, armed individual should attempt to first call for assistance, and then take a position of cover before engaging the individual.

20. Warning Shots

An officer **shall not** fire warning shots or shoot to signal for help. [1.3.3]

21. First Aid/Medical Treatment

An officer shall provide appropriate medical attention to any individual injured as a result of an officer's use of physical force or a lethal or less-lethal weapon. After any level of force is used, the officer shall evaluate the need for medical treatment when the individual has a visible injury or complains of discomfort. Officers shall, as soon as possible, and within their level of training, render first aid to individuals injured as a result of the use force described in this policy. Appropriate emergency medical transportation and treatment shall be obtained when necessary. [1.3.5]

22. Duty to Report Use of Physical Force or the Application of Physical Force

- A. The officer shall immediately notify his/her supervisor and file a [Use of Force Report](#) before the end of the shift in which the incident occurred. In no case will the officer be denied Union rights or the opportunity to meet with a Union representative. If the officer is injured or hospitalized, the report shall be filed as soon as practicable. See policy on Filing Use of Force Reports.
- B. [Use of Force Report](#) must be filed whenever:
1. An officer discharges a firearm for other than training or recreational purposes. [1.3.6(a)]
 2. An officer has used any authorized lethal or non-lethal weapon or applied weaponless, physical force **that results in injury**. Weaponless, physical force is defined as various controlling techniques and strikes designed to stop the assault on the officer or others, regain control, and ensure compliance. [1.3.6(c)(d)]
 3. A K-9 is used to counter active resistance or assaultive behavior.
 4. An officer has taken action that results in, or is alleged to result in, an injury or death to another person. [1.3.6(b)]
 5. An officer has drawn and/or displayed a firearm, which is directed at an individual, when dealing with a member of the public.
 6. When dispatching of a sick or injured animal
- C. Completed [Use of Force Report](#) will be maintained by the Administrative Captain. [1.3.6]

23. Discharge of Firearm at an Animal

An officer may discharge a firearm at an animal when necessary in self-defense, defense of another person, or to provide for the safety of the general public. An officer may also discharge a firearm at an animal when the animal is so critically injured that humanity requires relieving it from further suffering, and an Animal Control Officer is not immediately available. An officer is

required to obtain prior supervisory approval under these circumstances. The killing of the animal shall be done in such a manner that the public is not endangered by a ricocheting bullet. The killing of the animal in the presence of the public, and particularly the presence of children, shall be avoided.

24. Supervisory/Administrative Review [1.3.7]

- A. The Administrative Captain will review all [Use of Force Report](#) for any violation of department policy or any issues of training, equipment, or discipline which must be addressed. All findings shall be forwarded, in writing, to the officer's immediate supervisor, the Lieutenant in charge of Professional Standards, and the Chief.
- B. Any [Use of Force Report](#) will be forwarded to the Administrative Captain within twenty-four (24) hours of the incident. The Administrative Captain and the officer's immediate supervisor will review the circumstances involving the use of force. The Administrative Captain shall forward a written report to the Chief, concluding whether the force was reasonable. The Chief will review the report and within seven (7) days, determine whether any disciplinary action should be taken.
- C. The Chief will review the information and forward the reports to the Professional Standards, if necessary. Review by Professional Standards should include, but not be limited to, determining whether or not the use of force was consistent with department policy, department training, and officer and public safety. In addition to the Chief and Professional Standards, an independent review shall be conducted by a superior officer at the direction of the Chief, or his/her designee, who was not involved in the incident. [1.3.7]
- D. Annually, a review of all [Use of Force Report](#) will be conducted by the Administrative Captain in order to determine if any training needs, policy changes, trends, or patterns are revealed. See policy on Use of Force Reporting. [1.3.7, 1.3.13]

25. Investigation When Use of Force Results in Death or Serious Physical Injury [1.3.8]

- A. No reports shall be given to the media except as authorized by the Chief and the Public Information Officer.
- B. Whenever there is a situation where any officer's action has resulted in death or serious physical injury, the Shift Commander shall immediately make the appropriate notifications to the appropriate Deputy Chief. (1.3.8)
- C. The incident shall be investigated by the Chief, Professional Standards, and the Middlesex County District Attorney's Office, if warranted. The Armorer and/or State Police ballistic experts shall secure for examination the weapon(s) that was used. On completion of the investigation, the officer may be reissued his/her department-firearm.

26. Mandatory Testing

Any officer who has taken an action that has resulted in a serious injury or death must immediately submit to post-incident testing. See the department's policy on Post-Incident Testing.

27. Reassignment After Force Resulting in Death/Serious Bodily Injury

- A.** When an officer has used force that has resulted in a death or serious injury, or when the discharge of the officer's firearm has resulted in any injury, the officer will be immediately reassigned to administrative duty or a leave of absence.
 - 1.** This assignment shall remain in effect pending administrative review of the circumstances surrounding the incident. This reassignment shall not be considered punishment or any indication of wrongdoing.
 - 2.** During this time of administrative reassignment, post-incident debriefing and counseling for those involved shall be administered. [1.3.8]

28. Firearms Training

- A.** New Weapons – New hires as well as veteran officers will receive proficiency training whenever a new weapon is issued. [1.3.10]
- B.** All officers shall qualify at least annually with the weapons carried on-duty, both issued and authorized [1.3.11]
- C.** Proficiency training shall be monitored by a certified weapons or tactics instructor. Qualification shall be under the direction of the Somerville Police authorized Firearms Instructors, according to the procedures established by the Municipal Police Training Committee. [1.3.11(a)]
- D.** Following a reasonable period of practice and training, all officers will be expected to attain a standard of performance based on skill level currently required by the Municipal Police Training Committee.
- E.** The Firearms Instructor shall record all qualification scores and submit the scores to the Training Lieutenant who will record and file in the officer's training file. Additionally, all qualifications for use of O.C. spray, baton, shotgun, and/or Taser shall be recorded and kept in the officer's training file. [1.3.11(b)]

29. Remedial Training

- A.** Remedial training shall be provided for any mandatory training that requires an employee to meet a set standard to achieve qualification/certification. Any officer who fails to qualify with his/her firearm/authorized weapon(s) will receive remedial training by a

certified Instructor/Armorer. Until the officer qualifies he/she will be relieved of all duties requiring a firearm, including overtime and details. [1.3.11(c)]

- B.** A Qualified Firearms Instructor/Armorer shall inspect **all** weapons, lethal and less-lethal prior to their being issued. In addition, the firearms instructor shall inspect all weapons during the qualifications period and keep a written record of this inspection as well as to whom each weapon was issued. In addition, the firearms instructor shall immediately take out-of-service any weapon that the firearms instructor finds defective. [1.3.9(d)]
- C.** Each new officer shall receive a copy of the Use of Force Policy by his/her FTO and shall review and sign the acceptance sheet indicating that he/she has read and understands it before being graduating from the FTO training program.
- D.** The Firearms Instructor shall conduct a review the policies and procedures involving lethal and non-lethal use of force with all personnel during the annual qualification period. Each officer shall review and sign acknowledging that he/she has read and understands these policies and procedures. The Firearms Instructor shall maintain this record and submit a copy of it to the Training Lieutenant. [1.3.11, 1.3.12]