



Royal Newfoundland Constabulary

Policy and Procedure Manual
General Order 360
Date Issued: August 30th, 2016

USE OF FORCE

1.0 General

- 1.1 Purpose: To provide direction to police officers regarding use of force. Officers should pay particular attention to specific information enclosed that is intended to guide them in making decisions regarding their use of force application and the subsequent reporting.
- 1.2 Scope: All police officers should pay particular attention to this policy. This policy specifically references *Sections 25-27 of the Criminal Code* that govern police officers use of force.
- 1.3 Principle: Police officers have a responsibility to be fully versed in the use of force guidelines as contained in the *Criminal Code* and associated police policies. Decisions are subject to review in criminal, civil and/or disciplinary proceedings.

2.0 Police Officer Use of Force

- 2.1 Legislation governing the use of force is found in the *Criminal Code Sections 25 to 27*. Under this legislation, police officers are justified in doing what they are required to do and in using **as much force as is necessary** for that purpose. However, police officers are **not justified in using excessive force** and will be held criminally responsible for use of force that is considered to be excessive.
- 2.2 Police officers have discretion in exercising their authority in many instances; however, they are duty-bound to respond to the aid of a citizen and to give whatever assistance is necessary to protect him/her from harm. If this means that a certain amount of force must be used to accomplish that purpose, police officers will have no alternative but to use that amount of force. To do less would amount to an act of negligence and a breach of a police officer's sworn duty to protect the public.
- 2.3 Officers must avoid using unnecessary force. The privilege to use force is limited. A police officer can only use as much force as necessary to protect themselves or others. In some cases, that amount of force will involve lethal force. Most



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often, the amount of force will be what is reasonably necessary to enable them to affect the arrest.

- 2.4 Use of force situations often does not allow for an ordinal progression up a continuum of force and officers must be ready to escalate or de-escalate as the situation evolves.
- 2.5 Disengagement is a reasonable option in consideration of officer safety and the necessity to apprehend immediately. Disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, or calling in specialized units may be an appropriate response to a situation and should be considered.
- 2.6 Force options may be used simultaneously, for instance, combining verbal commands with use of chemical irritant. The officer must exercise proper use of force decision making, which means the use of reasonable force, including proper tactics, and de-escalation techniques.
- 2.7 A police officer's failure to stop an assault by a third person may be grounds for a charge of assault (or assault causing, assault with a weapon, aggravated assault or murder as the case may be) for that police officer. The courts have held that because a peace officer has a duty to protect persons in their custody, that the failure to protect them in the face of an assault is in fact an encouragement of the assault. The passive police officer is therefore a party to the offence and criminally liable.

3.0 Use of Force Training

- 3.1 All Divisional and Platoon Commanders will ensure that police officers attend the use of force training as approved by the Chief of Police.
- 3.2 All police officers will be required to successfully complete the Basic One-week Use of Force Program approved by the Chief of Police. Thereafter, police officers will receive compulsory training as approved by the Chief of Police.
- 3.3 The content of each module is subject to change on the recommendation of the Use of Force Training Unit or the Use of Force Review Board to the Chief of

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Police. This will allow flexibility for growth and adaptation to new and more efficient techniques. Detailed course content can be found under Standing Operating Procedures within the Use of Force Training Unit. The Use of Force Unit shall have discretion in deciding which officers complete specific Use of Force Modules.

- 3.4 The Use of Force Unit shall maintain an annual use of force training log in accordance with the training documentation procedures.

4.0 Carrying of Use of Force Equipment by Specific Officers

- 4.1 Requirements on Specific Officers with Respect to Carrying Use of Force Equipment:

- a. Plainclothes and Forensic Identification: These members will immediately upon reporting for duty, equip their person with the following authorized use of force options: their issued firearm, with a minimum of 2 magazines of ammunition (one mag in the weapon and the second mag will be carried in the combination magazine/ handcuff pouch) and OC spray. The issued baton and third magazine of ammunition can remain stored in their assigned firearm locker during routine plainclothes duty. However, a plainclothes member must carry all their use of force equipment and wear issued body armour when participating in a planned arrest or execution of a search warrant, where based upon a risk assessment it has been determined there is a potential for violence. Under those circumstances, the members involved will wear the standard issue duty belt with firearm, 3 magazines of ammunition, OC spray and baton, along with their body armour.
 - (i) Some members, who are assigned to plainclothes duties, work in sections or units that carry out roles that are for the most part administrative. These include: Professional Standards, Crime Analysts, Intimate Partner Investigators, Investigative Interviewing and Polygraph, CISNL, Crime Stoppers, Video Services Unit, Correctional Services, Internet Child Exploitation, and the National Sex Offender Registry. Members assigned to these areas will not have to carry their use of force equipment when carrying out their

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routine duty;

- (ii) However, these members will carry their use of force equipment if they are operating a marked or unmarked police vehicle or are involved in tasks or investigations that take them outside their office environment. In those instances, members will follow the guidelines referenced in the previous paragraph.
- b. Uniformed Officers: Uniformed officers assigned to Patrol Operations and Operational support will, immediately upon reporting to duty, equip their person with the standard issue patrol duty belt, along with the following use of force options: their issued firearm, 3 magazines of ammunition, OC spray and baton. These same officers will also be required to wear their RNC issued body armour when carrying out duties outside of an RNC building. Members assigned to the Telephone Reporting Center have the option of not wearing their body armour while carrying out their assigned duties inside an RNC building.
 - (i) Some uniformed officers carry out duties that are mostly confined to their office environment. This includes members assigned to: Communications Center, File Management Unit, Support Services, and any other uniformed officer assigned duties carried out primarily within an RNC building. Members assigned to these areas will not have to carry use of force equipment and wear body armour when carrying out their routine duty;
 - (ii) However, these members will carry use of force equipment as outlined in section b if they are operating a marked or unmarked police vehicle or are involved in tasks or investigations that take them outside their office environment.
- c. Commissioned Officers: Commissioned Officers carry out a mostly administrative role in the RNC and for the most part it is not necessary for them to carry their use of force equipment on a daily basis. However, there are occasions when Commissioned Officers must carry their issued firearm with a minimum of two magazines of ammunition and OC spray, their baton and the third magazine can remain stored in their assigned



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firearm locker:

- (i) When on duty as Platoon Commander;
- (ii) When attending the scene as Incident Commander;
- (iii) When attending the scene of an armed and barricaded person, or armed persons holding hostages, or any other incident where a weapon has been used or could potentially be used;
- (iv) When actively involved in any investigation or incident that will take them outside their office environment, especially where there could be contact with a suspect(s); and
- (v) When operating a marked police vehicle.

4.2 All members responding to scenes of Critical Incidents will be armed and wearing their issued body armour. It does not matter what role or capacity a particular member may have at the scene; there will be no exceptions to this policy.

4.3 All members, when operating marked patrol vehicles will be equipped with all required use of force items and must wear body armour.

4.4 For direction with regard to concealment of issued firearms, refer to Dress and Department policy.

5.0 Authority for Use of Force Under the *Criminal Code* (CC)

5.1 The authority of police officers the use of force is derived from and limited by *Sections 25, 26 and 27 of the Criminal Code*. All police officers must be familiar with the *Criminal Code* provisions governing the use of force.

5.2 In accordance with *Section 25 CC*, police officers will only be justified in using force when:

- a. they are in the lawful execution of their duties;
- b. the circumstances lead them to believe the use of force is necessary;



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- c. their belief is based on reasonable grounds; and
 - d. only as much force as is necessary is employed.
- 5.3 Under *Section 25(3) CC*, a police officer is not justified in using force that is intended or is likely to cause death or grievous bodily harm unless the police officer believes on reasonable grounds that it is necessary for the self-preservation of the police officer or the preservation of anyone under the police officer's protection from death or grievous bodily harm.
- 5.4 Under *Section 25(4) CC*, a police officer and every person lawfully assisting the police officer is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if:
- a. the police officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;
 - b. the offence for which the person is to be arrested is one for which that person may be arrested without warrant;
 - c. the person to be arrested takes flight to avoid arrest;
 - d. the police officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the police officer, the person lawfully assisting the police officer or any other person from imminent or future death or grievous bodily harm; and
 - e. the flight cannot be prevented by reasonable means in a less violent manner.
- All of the above conditions, (a) to (e), must be met for *Section 25(4) CC* to be applied.
- 5.5 Under *Section 26 CC*, a peace officer is criminally responsible for any excessive use of force.



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- 5.6 Section 27 CC states that everyone is justified in using as much force as is reasonably necessary:
- a. to prevent the commission of an offence:
 - (1) for which, if it were committed, the person who committed it might be arrested without a warrant; and
 - (2) that would be likely to cause immediate and serious injury to the person or property of anyone; or
 - b. to prevent anything being done that, on reasonable grounds, s/he believes would, if it were done, be an offence mentioned in paragraph "a ".
- 6.0 Use of Force Guidelines**
- 6.1 Police officers shall not resort to the use of force unless such use is necessary in the execution of their duties as peace officers and this purpose cannot reasonably be accomplished by less violent means.
- 6.2 The decision as to whether force is to be used, and the amount to be applied, shall rest solely with the police officer at the scene who is personally involved. It is important to bear in mind that the decision to use force and the amount thereof must be reasonable and not excessive. Such decisions are subject to review.
- 6.3 Although decisions may have to be made instantly, in each case the decision shall be based on a reasonable assessment of the totality of circumstances.
- 6.4 Police officers shall not use any more force than is necessary under the circumstances to accomplish their lawful objectives.
- 6.5 Officers shall avoid the use of items as a means of force that are not issued specifically as defensive weapons such as flashlights, radios, etc., except as spontaneous defensive weapons, in response to situations where there is reason to believe that imminent threat of death or serious physical injury exists and no other option is available.



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7.0 Subject Behaviors

7.1 There are essentially five categories of subject behaviors:

a. Compliance

It is the goal of all officers to achieve compliance. When displaying compliant behavior, the subject responds appropriately to the officer's presence, direction and control. At anytime, a subject can always chose to comply.

b. Passive Resistance

The subject refuses to cooperate with the officer's lawful direction with no physical action. This can assume the form of verbal refusal.

c. Active Resistance

The subject uses non-assaultive physical action to resist while resisting an officer's lawful direction. Examples include pulling away to prevent or escape control, locking of body parts to other persons or objects or running away.

d. Assaultive Behavior

The subject attempts to apply or applies force to an officer. Examples include kicking, punching or pre-assaultive signs that can include; ignoring the officer; repetitious questioning; aggressive verbalization; clenching of the fists or aggressive stances.

e. Grievous Bodily Harm or Death

The subject exhibits actions that the officer reasonably believes are intended to cause death or grievous bodily harm. Examples include assaults with a knife, stick or firearm, or actions that would result in serious injury to an officer or member of the public.



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8.0 Dialogue and Communication

- 8.1 Dialogue and communication are those verbal skills which an officer may use to gain voluntary compliance from a non-compliant subject.
- 8.2 If dialogue and communication skills fail and/or prove to be inappropriate and unreasonable due to the circumstances faced by an officer, then escalation to an appropriate and reasonable force option may be employed to gain compliance and control of a subject.
- 8.3 Dialogue and communication should be viewed as an option at every use of force incident when appropriate and reasonable to do so.

9.0 Authorized Force Options

- 9.1 The approved force options that are authorized to be used within the RNC are:
 - a. presence;
 - b. dialogue and communication;
 - c. soft and hard physical control techniques;
 - d. oleoresin capsicum spray;
 - e. impact weapons, less lethal bean bag, CEW; and
 - f. firearms.
- 9.2 There are other specialized force options which officers may have available to them such as the Police Dog Service (PDS) or Tactics and Rescue Unit (TRU). The use of these specialized Units will be based and assessed upon the specific sections in policy that pertain to them.
- 9.3 All force options are subject to change depending upon judicial precedents or new control tactics and techniques that become available and which are adopted for use by the RNC.



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10.0 Use of Force Weapons

a. Handcuffing

Refer to Batons and Restraints policy.

b. Soft Physical Control Techniques

- (1) Soft physical control techniques are those techniques in which officers use their physical strength to employ pain compliance techniques such as joint manipulations, throws and takedowns to gain compliance and physical control of a non-compliant subject.
- (2) Soft physical control techniques should be considered for use when reasonable and appropriate to do so, on a subject who needs to be controlled and has become non-compliant and is either passively or actively resistant towards the officer or others and attempts at a lower force option had failed or were inappropriate or unreasonable.
- (3) The Use of Force Report Form RNC # 096 shall be completed when this type of force is delivered.

c. Hard Physical Control Techniques

- (1) Hard physical control techniques are those which employ punches, kicks, elbows, knees and other similar techniques.
- (2) Officers employing hard physical control techniques are required to complete the Use of Force Report Form RNC # 096.

d. Oleoresin Capsicum (OC) Spray

Refer to Oleoresin Capsicum (OC) Spray policy.

e. Baton



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Refer to Batons and Restraints policy.

f. Conducted Energy Weapon (CEW)

Refer to Conducted Energy Weapon (CEW) policy.

g. Less Lethal Shotgun

Refer to Less- Lethal Shotgun policy.

h. Service Firearms

Refer to Firearms policy.

i. Police Dog Services (PSD)

Refer to Police Dog Services Unit policy.

11.0 Civil Disturbances

11.1 Civil disturbances are unique situations that often require special planning and tactics to best bring an unlawful situation under effective control. The on-scene Incident Commander shall evaluate the overall situation and determine reasonable force options. Refer to Crowd Management and Control chapter for detailed procedures.

12.0 Rendering Aid after Use of Force

12.1 Any time a police officer uses force; appropriate medical aid will be provided for any person involved as soon as practical. This does not mean that all persons upon whom any force was used need to be immediately evaluated by medical personnel. It may include increased observation to detect changes in physical condition, first aid, evaluation by paramedics, or transport to a medical facility, depending on circumstances.

13.0 Justification for the Use of Force

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- 13.1 When an officer uses any force option in the execution of their duties, they do so to:
- a. gain control of a subject who is being non-compliant with an officer's lawful order;
 - b. protect themselves or others from physical harm; or
 - c. bring an unlawful situation safely and effectively under control.
- 13.2 Any force option used by an officer to control another person must be based on an officer's assessment of the threat to that officer or others. The force option chosen must be reasonable and justifiable.
- 13.3 The concept of "reasonableness" is central to the application of a force option. Some, but not all of the factors that can affect the reasonableness of a force option selection are:
- a. Subject factors:
 - (1) age;
 - (2) size;
 - (3) gender;
 - (4) combative skills or perceived combative skills;
 - (5) multiple subjects;
 - (6) weapons;
 - (7) pre-assaultive signs;
 - (8) previous behavior of subject with police;
 - (9) drug and alcohol intoxication; and



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(10) mental state.

b. Officer factors:

- (1) age;
- (2) size;
- (3) gender;
- (4) skill level/physical abilities;
- (5) exhaustion;
- (6) injury;
- (7) perception of threat;
- (8) position, time and distance;
- (9) proximity to weapon; and
- (10) imminent danger of death or grievous bodily harm.

c. Tactical factors

- (1) friendly / hostile territory;
- (2) availability of cover;
- (3) proximity of back-up;
- (4) weather (effectiveness of a force option);
- (5) lighting (ability to see);
- (6) availability of specialized units (TRU, PDS); and

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(7) possibility of tactical repositioning / disengagement.

13.4 If an officer(s) use of a force option is unreasonable and unjustifiable, then the officer(s) will be held accountable for their actions.

14.0 Reporting Use of Force

14.1 Reporting the use of force is mandatory in all cases where police officers have to use force to control a subject. Police officers will complete the Use of Force Report Form RNC # 096 in addition to standard reporting procedure.

14.2 The following uses of force must be reported:

- a. Soft physical control techniques;
- b. Hard physical control techniques;
- c. Impact Weapon - Soft;
- d. Impact Weapon - Hard;
- e. Handcuffs (Non-Compliant Only);
- f. Police Service Dog;
- h. Oleoresin Capsicum Spray;
- i. Less-Lethal shotgun (drawn, pointed or discharged);
- i. Conducted Energy Weapon (CEW);
- j. Patrol Carbine (drawn, pointed or discharged);
- k. Firearm - Drawn;
- l. Firearm - Pointed At Person; and



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- m. Firearm - Discharged.

14.3 Procedure

- a. Every Police Officer who engages in the use of force shall complete the Use of Force Report Form RNC # 096 and forward it with the corresponding file to the File Management Unit.
- b. Upon completion of the file review by the File Management Unit, the form will be forwarded through the police officers' chain of command to their respective Inspectors and Superintendents for review.
- c. Platoon and Divisional Commanders will:
 - (i) review all submitted Use of Force Report Forms RNC # 096;
 - (ii) forward a monthly covering report of their review along with the original Use of Force Report Form RNC # 096 to the Office of the Chief of Police. The review shall include general comments, reference to policy compliance, and other recommendations; and
 - (iii) maintain a record of all reported incidents of use of force and submit a detailed report to the Office of the Chief of Police by January 31 of the following year.
- d. Inspectors and Superintendents will forward Use of Force Monthly Summary Report RNC # 324 summarizing their monthly review of all completed Use of Force Report Forms RNC # 096 along with the original Use of Force Report Form RNC # 096 to the Office of the Chief of Police. The review shall include general comments, reference to policy compliance, all instances where remedial training is recommended and all other recommendations.
- e. The original Use of Force Report Form RNC # 096 will be retained by the Office of the Chief of Police.



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15.0 Psychological Services for the Police Officer

15.1 After-care of police officers involved in traumatic incidents where any person has been injured or killed as a result of a use of force by a police officer shall be in accordance with the Employee Assistance Program and will include the following:

- a. notification of the Police Officer Assistance Coordinator as soon as practicable;
- b. involvement of a psychologist (refer to policy on EAP);
- c. notification of next-of-kin and, when possible, direct and private communications between police officers and their families;
- d. personal contact with all involved police officers by Senior Commissioned Officers;
- e. consideration to involvement of a chaplain or clergy;
- f. consideration to reassigning the police officers to non-operational duties; and
- g. requirement of police officer to take a mandatory period of three days off when death results from their action in the line of duty.

16.0 Use of Force Investigations:

16.1 In accordance with the provisions afforded under a *Memorandum of Understanding and/ or Letter of Agreement* the Chief of Police may request the services of an outside policing agency to act as investigators in circumstances where serious occurrences have taken place involving the actions of one or more police officers of the RNC, including instances of serious injury or death.

16.2 If a police officer is involved in a discharge of firearm or any other use of force resulting in injury or death outside his/her jurisdiction, whether on or off-duty, the police agency responsible for that jurisdiction shall conduct the investigation of

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the incident. However; the Chief of Police may designate the RNC Professional Standards Section to conduct an internal investigation to ensure compliance with the RNC Act or any other relevant statutes.

17.0 Use of Force Review Board

17.1 The RNC and its individual police officers have a vested interest in maintaining the highest standards in relation to use of force training and authorities granted under the *Criminal Code*. To accomplish this objective requires ongoing evaluation of RNC procedures, practices and training in relation to the use of force. The responsibility for such evaluation shall be vested with the RNC Use of Force Review Board. This board will review all instances where remedial training is recommended by the Inspectors and Superintendents as documented on the Use of Force Monthly Summary Report RNC # 324, but will not act as a disciplinary committee. Meetings will be held on a quarterly basis or as directed by the Chief of Police or his/her designate.

17.2 The Board Members shall be:

- a. Deputy Chief of Police, Patrol Operations;
- b. Member of Strategic Planning & Research Section;
- c. Firearms & Use of Force Instructor;
- d. RNC Inspections Officer;
- e. A representative of the RNCA to be determined in consultation with the Chief of Police; and
- f. RNC Legal Counsel.

17.3 The Board is responsible to:

- a. evaluate and where necessary, make recommendations concerning RNC policy and training;



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- b. recommend training for individual police officers;
- c. report to the Chief of Police as requested and where considered necessary; and
- d. review and approve the use of new equipment.