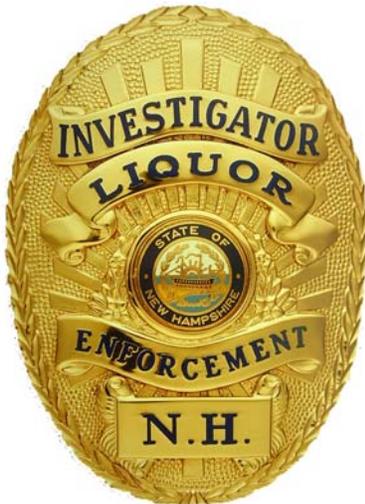


**2011**

# **Use of Force Annual Report/Analysis**



Submitted by:  
Todd Feyrer  
Office of Professional Standards  
February 15, 2012



## NH Division Of Liquor Enforcement Office of Professional Standards 2011 Use of Force Report/Analysis

### **Executive Summary**

The NH Division of Liquor Enforcement and Licensing (Division) is completing its Use of Force self-analysis phase as a continuing improvement process through the Commission on Accreditation for Law Enforcement Agencies. Each accredited law enforcement agency must perform an internal Use of Force analysis (CALEA 1.3.13). The analysis is systematically structured to identify any patterns or trends. Analysis should reveal patterns or trends that could predict or could indicate the need for an increase in Use of Force training, equipment purchases or upgrade and/or the necessity for policy modification.

This is the third Use of Force analysis completed by the Division which provides a critical process in reviewing departmental policies and procedures. This analysis provides a process for improvement in our policy language, records management system, capturing additional data in offenses and supervisor oversight in Use of Force incidents.

The Division has implemented a Personnel Early Warning System which will serve many purposes, one being a venue for targeting possible Use of Force concerns. By engaging in a systematic review of specific incidents it will assist in the identification of employees who may exhibit signs of performance and/or stress related issues, and who may benefit from early intervention. In conjunction, supervisory staff must ensure all reports and forms are completed when required. A Use of Force Report Form is completed every time force is used or displayed.

The Division strives for improvement through personnel development, policy enhancement and pro-active response in order to provide effective and efficient service to the citizens, license holders, and other constituents of the State of New Hampshire.

### **Introduction**

Commission on Accreditation for Law Enforcement Agencies (CALEA) requires a law enforcement agency to conduct a documented annual analysis of the reports required. A written



**NH Division Of Liquor Enforcement  
Office of Professional Standards  
2011 Use of Force Report/Analysis**

police report is submitted whenever an employee:

1. Discharges a firearm for other than training or recreational purposes.
2. Takes an action that results in, or is alleged to have resulted in, death or injury of another person.
3. Applies force through the use of lethal or less lethal weapons.
4. Applies weaponless physical force at a level as defined by this agency.

The Division of Liquor Enforcement and Licensing Standard Operating Procedure O-101: Police Use of Force provides our investigators with guidelines on the Use of Force. The Division recognizes the value of human life, which is immeasurable in our society. It is the policy of this agency that investigators may use only the minimum amount of force necessary to accomplish lawful objectives. The lawful Use of Force must be controlled and confined so that an investigator will not subject himself/herself to civil and criminal liability.

### **Division Policy and Procedure**

#### General Reporting Uses of Force

A written report (*Addendum #7*) prepared according to departmental procedures shall be required in the following situations:

1. When soft hand control techniques are employed on a subject (*Soft hand control techniques include take downs, escorts and/or anything greater than professional presence and less than hard hand control techniques*).
2. When hard hand control techniques are employed on a subject (*Hard hand control techniques include palm heel strikes, knee strikes or any of*



**NH Division Of Liquor Enforcement  
Office of Professional Standards  
2011 Use of Force Report/Analysis**

*the like.)*

3. When O.C. Spray has been deployed and/or removed from its holster by an Investigator with the intent of being used, or suggested that it be used against another (*Suggested use is defined in this policy as threatening the use of OC Spray with or without removing it from the holster.*)
4. When the Expandable Baton has been deployed and/or removed from its holster by an Investigator with the intent of being used, or suggested that it be used against another (*Suggested use is defined in this policy as threatening the use of the Expandable Baton with or without removing it from the holster.*)
5. When the TASER X26 has been deployed and/or removed from its holster by an Investigator with the intent of being used, or suggested that it be used against another (*Suggested use is defined in this policy as threatening the use of the TASER X26 with or without removing it from the holster.*)
6. When the Firearm has been suggested that it is going to be used, threatened to be used or has been deployed and/or discharged in any manner; other than during range training, practice or qualification (*Suggested use is defined in this policy as threatening the use of the Firearm with or without removing it from the holster.*) (*Deployment includes un-holstering the firearm in the line of duty, even if there were not any rounds discharged.*)
7. When a subject complains that an injury has been inflicted.



## NH Division Of Liquor Enforcement Office of Professional Standards 2011 Use of Force Report/Analysis

8. When Use of Force results in death or serious injury. <sup>1</sup>

### Records Management

The Division's current management and review of Use of Force Reports is the responsibility of the Deputy Chief, Field Operations Lieutenant(s), and the ACTU Commander. All Use of Force Reports are reviewed and initially approved by the Lieutenants before being submitted to the Deputy Chief and ACTU Commander. Statistical information is reviewed and tallied on a regular basis. At year end, a comprehensive report is completed, compared to the following year and presented at the Division's annual Use of Force Training. This analysis will incorporate 2011 in addition to a comparison of the two years prior.

### Use of Force Complaints

It is the policy of this Division to accept and investigate all complaints of personnel misconduct or wrongdoing from any citizen or agency employee. Such complaints will be investigated thoroughly, completely and impartially, following policies and procedures as set fourth in the Division's Policy and Procedures Manual. <sup>2</sup>

When a complaint is filed, the investigating Officer will file an appropriate report, which will indicate the appropriate decision and disposition based upon the findings of fact. The decision shall be classified as one of the following:

1. *Unfounded - A determination that the charges are false or not factual.*
2. *Exonerated - A determination that the incident occurred, but was justified, lawful and proper.*

---

<sup>1</sup> Division Policy and Procedures Manual, O-101 Police Use of Force pp.8-9

<sup>2</sup> Division Policy and Procedures Manual, P-251 Citizen Complaints & Internal Investigations p.2

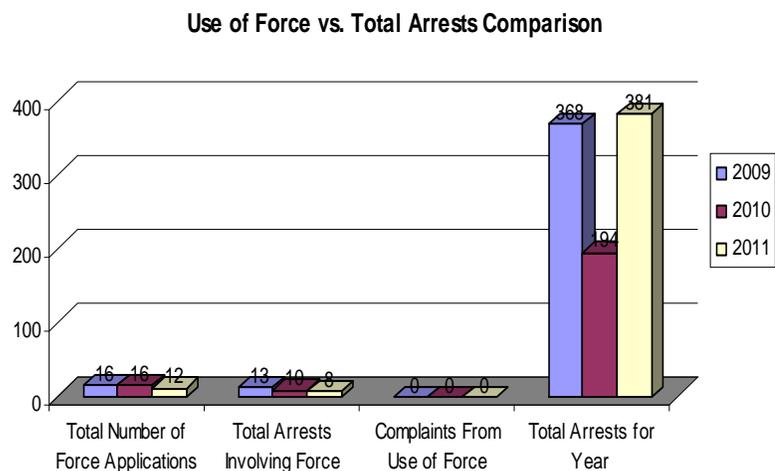


## NH Division Of Liquor Enforcement Office of Professional Standards 2011 Use of Force Report/Analysis

3. Not Sustained - *A determination that the facts presented are insufficient to clearly prove or disprove the allegation.*
4. Sustained - *A determination that the allegations are supported by sufficient evidence to justify a reasonable conclusion of guilt or that sustained acts have been discovered that indicate misconduct not based on the original complaint. 3*

In 2011 the Division of Enforcement and Licensing recorded 10 separate Use of Force reports. Of these 10 reports, three (3) incidents involved multiple force applications to control the situation. For example, soft hand techniques were applied which were not effective in controlling the situation. Therefore hard hand techniques were applied and if unsuccessful the investigator escalated to the use of Taser to effectively control the situation. There were no citizen complaints regarding excessive Use of Force.

Of the 381 arrests for 2011, only 8 or 1% involved the use of force. This is a reduction from prior years that being 5% in 2010 and 4% in 2009 of the total number of arrests that involved the use of force. This graph also illustrates the total number of force applications as noted above.

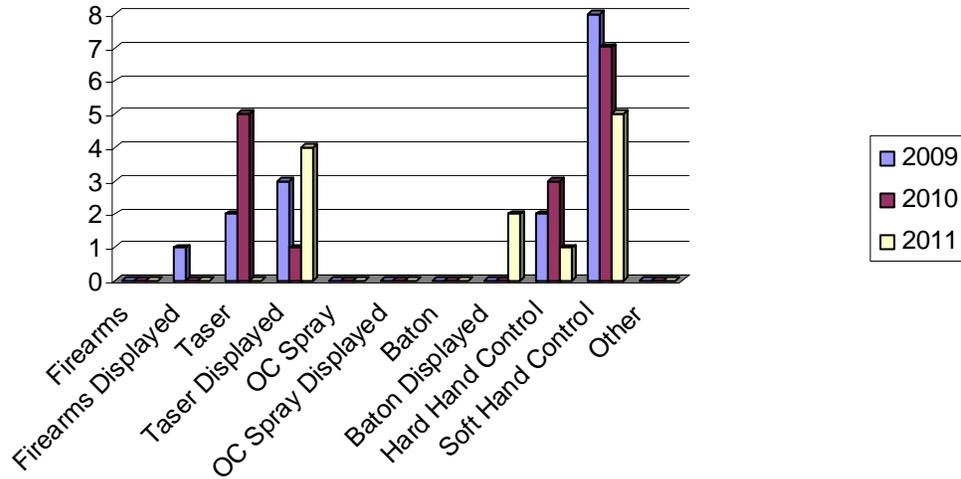


Graph #1



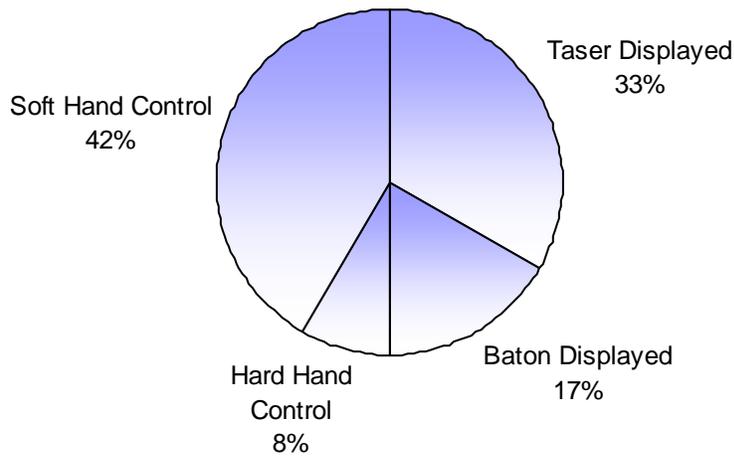
GRAPH #2

Tpe of Force Used by Investigators



GRAPH #3

2011 Percentage of Types of Force Used





NH Division Of Liquor Enforcement  
Office of Professional Standards  
2011 Use of Force Report/Analysis

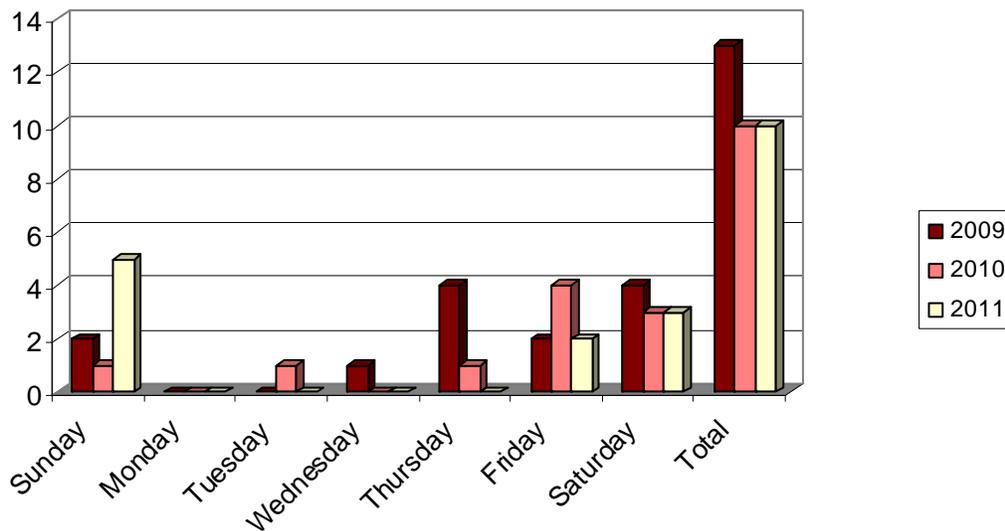
**Types of Force Used**

Graph 1 indicates the types of force used in 2011, 2010 and 2009 and Graph 2 illustrates the percentage of force used for 2011. Of the 10 documented Use of Force Reports for 2011 50% involved soft hand and hard hand control initially. 30% of these arrests required escalating the level of force in order to control the situation. In all instances this resulted in the Taser being displayed. No actual deployments of the Taser took place in 2011; compared to 2 deployments in 2009 and 5 in 2010. In all instances the Taser was applied appropriately.

**GRAPH #4**

**Day of the Week**

**Use of Force Daily Breakdown**



With the schedule for Investigators primarily focusing on Thursday thru Saturday nights, it can be expected that these days would yield the highest rate of Use of Force. Thursday, Friday and Saturday all show a reduction in the applications of force, while Sunday shows a significant increase from previous years. This is due to investigators assisting with crowd control at a college event which required the display of batons. No actual application of the baton was used during this event.

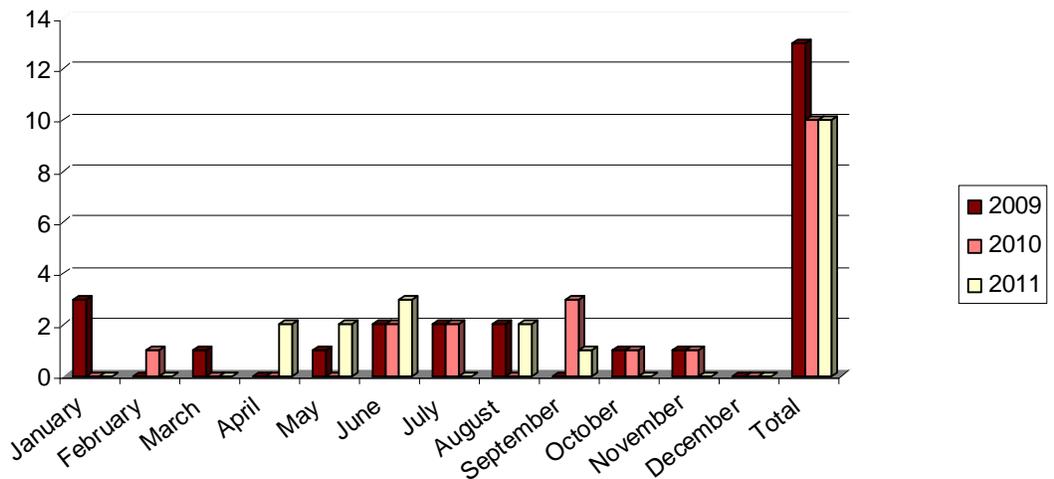


**NH Division Of Liquor Enforcement  
Office of Professional Standards  
2011 Use of Force Report/Analysis**

**GRAPH #5**

**Month of the Year**

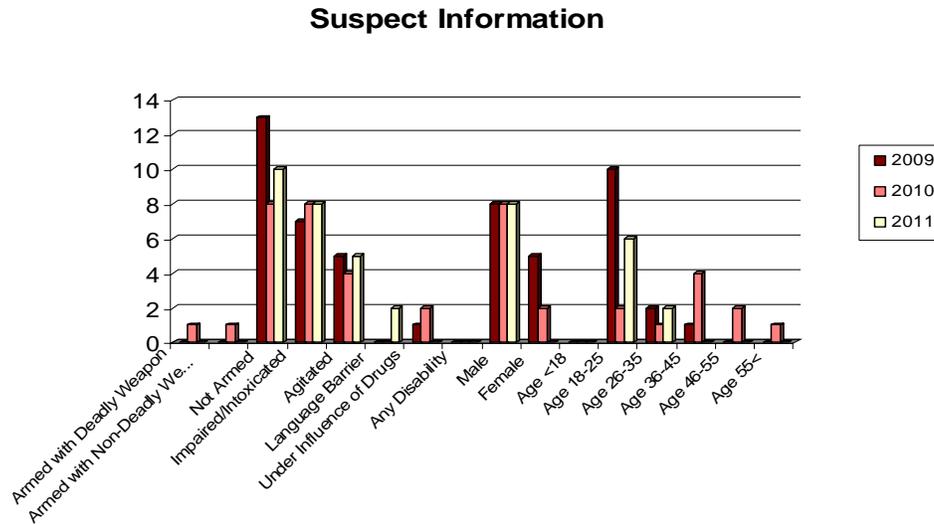
**Use of Force Monthly Breakdown**



Data compiled from the Use of Force reports indicate the most prevalent month use of force was applied was June versus September in 2010. There appears to be no consistent times throughout the years being compared, other than the majority of all use of force applications took place through the months of April to September.



**GRAPH #6**  
**Suspect Information**



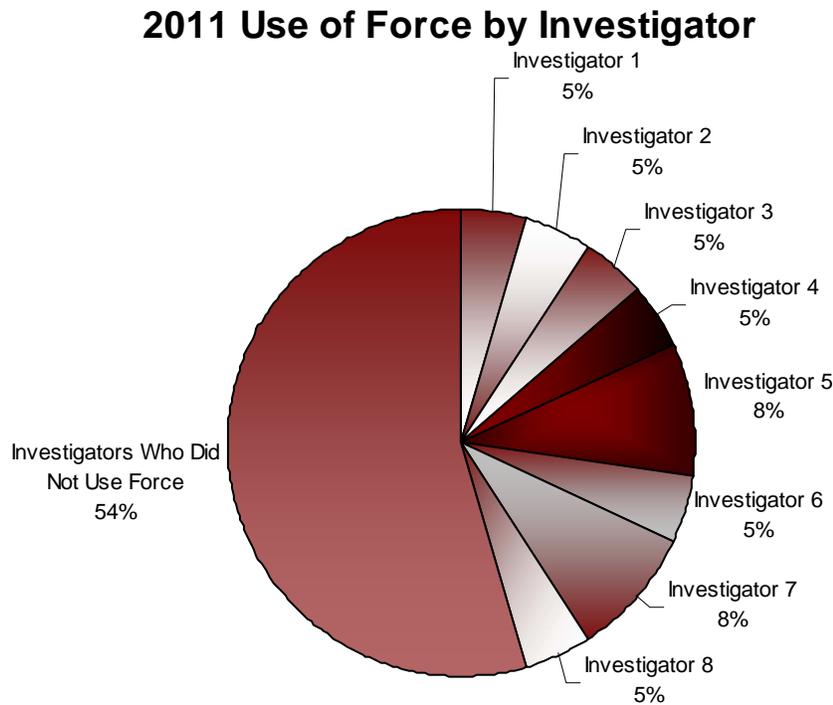
All of the suspects in 2011 were reported not armed; however most were agitated or under the influence of alcohol. Due to the deployment of the baton for display purposes only during the crowd control event mentioned earlier, it was impossible to gain accurate statistics on gender as there were both male and female present during this event. Therefore, the only specific deployments of force in 2011 involved male suspects. Force used against male suspects has remained virtually unchanged since 2009.



NH Division Of Liquor Enforcement  
Office of Professional Standards  
2011 Use of Force Report/Analysis

**GRAPH #7**

**Use of Force Events by Investigator**



There were a total of eight (8) investigators involved with Use of Force in 2011 versus six (6) in 2010. Six (6) investigators submitted one Use of Force Report each, while two investigators were involved in two (2) incidents. No one investigator shows a disproportionate amount of force used and all incidents have been carefully evaluated and are in accordance with Division Policy.

**Conclusion**

In reviewing 2011 Use of Force data and information gathered, it shows that of the 10 Use of Force Reports filed, 100% occurred between the months of April to September. No suspects were armed compared to two (2) who were armed in 2010. Eighty-percent of the suspects were under the



**NH Division Of Liquor Enforcement  
Office of Professional Standards  
2011 Use of Force Report/Analysis**

influence of alcohol and/or drugs which remained consistent with prior years. Oleo Resin Capsicum was not used in any of these events, while the Baton and Taser were displayed only. 2011 marked a significant reduction in the deployment of the Taser from 2 in 2009, 5 in 2010 and 0 in 2011. There were no incidents of firearms being displayed or used in 2011 or 2010, compared to 2009 where there was one instance.

This Use of Force Analysis is an effort that the Division has undertaken to ensure compliance of both State and Division regulations. The Division continues to provide annual Use of Force Training, which encompasses Simunitions, Defensive Tactics, Handcuffing, Baton, Oleo Resin Capsicum, Transition/Escalation of force, Taser and Firearms.

This Use of Force Analysis is also designed as a building block for the Division to help recognize, meet and create the challenges of the evolutionary process of training. Recognizing the need for this training will improve and at the same time enhance our strengths. The Arrest Control Tactics Unit (ACTU) is moving forward to improve the training given to the investigators in all aspects of force.