



VSP-DIR-701

Use of Force

1.0 Purpose

- 1.1 To establish guidelines concerning the use of force.
- 1.2 To provide an understanding of resistance and applying any escalation or de-escalation of force.

2.0 Definitions

- 2.1 Pointing of Firearm - The action of a member to point the muzzle of a firearm at or in the direction of a human being. The action of drawing and/or maintaining a firearm at a ready position shall not be considered pointing of firearm.
 - A. Members should be able to articulate facts and circumstances that led them to draw and/or maintain a firearm at a ready position. A firearm should be re-holstered or secured once the facts and circumstances have been resolved. The action of drawing and/or maintaining a firearm at a ready position is not considered a use of force and members taking such action do not need to complete the reporting requirements as outlined within this policy.
 - B. Officers are prohibited from pointing their firearms at or in the direction of a person absent articulable facts that the situation may escalate to the point where deadly force would be authorized under this policy.
 - C. Any instance of pointing of a firearm is considered to be a use of force and shall be reported in accordance with the provisions of this policy.
- 2.2 Active Resistance - When a subject makes physically and/or mechanically evasive movements to interfere with an officer's attempt to control that subject; including bracing, tensing, pulling away, actual or attempted flight, or pushing.

- 2.3 Arrest or Detention - Is a seizure under the Fourth Amendment and use of force may be applied to affect the seizure.
- 2.4 Conducted Electrical Weapon ("CEW") - An incapacitating, intermediate weapon used for subduing a person or animal that administers an electric shock for the purpose of disrupting superficial muscle functions. The CEW is an intermediate weapon that is classified as less lethal.
- 2.5 Control and Restraint Techniques - The use of physical strength and skill in defensive tactics to control arrestees who are reluctant to be taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance. Takedowns, joint locks, and simply grabbing a subject are examples of such action. Touching or escort holds may be appropriate for use against levels of passive physical resistance.
- 2.6 De-Escalation - A decrease in the severity of force used in an incident in direct response to a decrease in the level of resistance. De-escalation also consists of dialogue, verbal commands, actions and/or tactics, designed to place officers in a position of advantage while increasing the likelihood of voluntary compliance and reducing the likelihood of the need to use force when dealing with irrational, unpredictable, or suicidal persons.
- 2.7 Department Authorized Weapon - Any weapon issued by or authorized for use by the department that requires a member to be trained and/or certified including a firearm, OC spray, Conductive Electrical Weapon and impact tools.
- 2.8 Excessive/Unauthorized Force - Use of force by a member that is determined to not be objectively reasonable.
- A. Such conduct constitutes a violation of section 17.0 of VSP-GEN-202, Code of Conduct.
- B. A member utilizing excessive/unauthorized force may face potential criminal prosecution and/or civil liability.
- 2.9 Exigent Circumstances - Those circumstances that would cause a reasonable member to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other circumstance(s) that impedes legitimate law enforcement efforts.
- 2.10 Harm - Injury inflicted upon a person, whether visible or not.

- 2.11 Impact Tools and Impact Projectiles - Shall refer to the expandable baton, PR-24, bean bag rounds, sponge rounds, pellet rounds, rubber/plastic projectiles, or other field expedient object, or other tools issued or recommended by the Use of Force Training Review Panel.
- 2.12 Less-Lethal Force - Levels of force that when employed are neither intended nor expected to cause serious bodily injury or death. Such force is normally that force used to temporarily control or immobilize.
- 2.13 Lethal Force - Any action, with or without a weapon, that could reasonably cause serious bodily injury or death.
- 2.14 Level of Control - The amount of force that an officer uses to gain control over a subject.
- 2.15 Level of Resistance - The amount of force used by a subject to resist compliance with the lawful order or action of a member.
- 2.16 Non-Verbal and Verbal Non-Compliance - When a subject expresses his/her intentions not to comply with an officer's directive through verbal and non-verbal means. An officer may encounter statements ranging from pleading to physical threats. Such statements may also include physical gestures, stances, and subconscious mannerisms.
- 2.17 Objectively Reasonable Force: The degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. (See, *Graham v. Connor*, 490 US 388 (1989.)) The reasonableness of a particular use-of-force must be judged from the perspective of a reasonable officer on the scene (not with 20/20 hindsight). Its calculus must embody an allowance for the fact police officers are forced to make split-second decisions. In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to:
- A. the seriousness of the crime or suspected offense;
 - B. the level of threat or resistance presented by the subject;

- C. the risk or apparent attempt by the subject to escape;
 - D. and whether the subject was posing an imminent threat to officers or others.
- 2.18 OC Spray - Shall refer to Oleoresin Capsicum (OC), which is primarily an inflammatory agent with irritant side effects. Only OC approved by the department may be carried. The propellant shall be non-flammable and conductive electrical weapon compatible.
- 2.19 Passive Resistance - When a subject does not cooperate with an officer's commands but does not take any physical and/or mechanical action to prevent being taken into custody. For example, a protestor who lies down in front of a doorway and must be carried away upon arrest.
- 2.20 Personal Impact Strikes - Impact oriented techniques that include knee strikes, elbow strikes, hand strikes, forearm strikes, and kicks. Control strikes are used to subdue a subject or place the subject off balance with the intent to distract or redirect the individual's thought process.
- A. Defensive strikes are used by officers to protect themselves from attack and may include strikes to other areas of the body, including the abdomen or head. Techniques in this category include pressure point controls, stunning or striking actions delivered to a subject's body with the hand, fist, forearm, legs, or feet. These techniques target the major muscle groups and are delivered to create muscle cramping, thereby inhibiting muscle action and allowing the officer to subdue the subject. In extreme cases of self-defense, the officer may need to strike more fragile areas of the body where the potential for injury is greater. The use of a prohibited restraint is prohibited with no exception.
- 2.21 Prohibited Restraint - Use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain (see also 13 V.S.A. § 1032). The technique commonly referred to as vascular neck restriction is considered a prohibited restraint for purposes of this policy.
- 2.22 Reasonable Belief - Facts or circumstances that would cause a reasonable, similarly trained member to act or think in a similar manner, under similar circumstances.

- 2.23 Serious Injury - Injuries that could reasonably cause permanent disfigurement, disability, loss of use or death.
- 2.24 Use of Force - Any force employed by a law enforcement officer to compel a person's compliance with the officer's instructions that constitutes a greater amount of force than handcuffing a compliant person. Use of force is lawful if it is objectively reasonable under the circumstances to affect an arrest or protect the officer or another person.
- 2.25 Verbal Commands - The use of advice, persuasion, warnings, and/or giving direction prior to resorting to actual physical force. In an arrest situation, officers shall, when feasible, give the arrestee simple directions with which the arrestee is encouraged to comply. Verbal commands are the most desirable method of dealing with an arrest situation.

3.0 Policy

- 3.1 The Vermont State Police recognizes that the use of unnecessary force is unlawful, erodes the public's confidence and support, and in the long run, damages the effective delivery of law enforcement. Therefore, it is the policy of this department that members may only employ objectively reasonable use of force to accomplish a legal purpose. The degree of force used depends on what the member perceives as being objectively reasonable under the circumstances.
- 3.2 The policy is not to be construed to require members to assume unreasonable risks. In assessing the need to use force, the paramount consideration should always be the safety of the member and the public.
- 3.3 Members shall only carry department authorized weapons and ammunition on duty. The member must be certified and maintain certification on all department authorized weapons through the department or Vermont Criminal Justice Council.
- 3.4 It is the expectation of all members that they shall intervene, when able to do so, upon witnessing the occurrence of excessive force from their perspective as defined within policy. Members are reminded that they are required to report such occurrences in accordance with the Code of Conduct and that failure to intervene and also report excessive force to a supervisor is considered unprofessional conduct by a law enforcement officer as defined within 20 V.S.A. § 2401.

4.0 Procedure - Use of Less-Lethal Force

4.1 General Procedures Regarding Less-Lethal Use of Force

- A. Members shall use advisements, warnings, verbal persuasion, and verbal instructions when feasible before resorting to force.
- B. Force shall be de-escalated as resistance decreases.
- C. When feasible based on the circumstances, members will use tactics such as area containment; surveillance; waiting on a subject; summoning reinforcements; and/or requesting activation of specialized units, in order to reduce the need for force and thereby increase officer, suspect and civilian safety.
- D. When feasible, members shall allow individuals time to submit to arrest before force is used.

4.2 Members must weigh the circumstances of each case and employ only that amount of force which is objectively reasonable to control the situation or persons with respect to the control superiority principle. The force employed should be that which is reasonable to overcome the resistance or immediate threat that the person poses to the member or others.

4.3 The dynamics of all encounters are different. When a member determines it is objectively reasonable to use force, the member shall utilize an escalating or de-escalating level of force as determined by the particular needs of the situation.

4.4 This policy shall not prohibit a member from reacting to a perceived threat. The use of force does not have to be progressive, and a member may escalate and de-escalate as is reasonable.

4.5 Member's perception of the subject and appropriate response:

- A. Compliant - Willfully obeys member's lawful directions and/or requests.
 - 1. Response: Cooperative controls - includes those developed to preserve officer safety and security, including escorts, communication skills, restraint applications, etc.
- B. Passive Resistance - The preliminary level of non-compliance. Here, the subject, although non-compliant, offers no physical or mechanical energy enhancement toward the resistant effort.

1. Response: Contact Controls - includes resistant countermeasures designed to guide or direct the non-compliant subject. These "hands on" tactics could include the elbow/wrist grasp, hand rotation position, non-compliant escorts, other low level physical contact, key verbal skills, or equipment display.
- C. Active Resistance - The subject's non-compliance is increased in scope and/or intensity, which may now include physical maneuvers such as "pulling away."
1. Response: Compliance Techniques - includes resistant countermeasures designed to counter the subject's enhanced degree of resistance. These tactics could include joint locks, arm bars, take downs, empty hand strikes, distraction strike techniques, OC spray, baton for the purpose of gaining anatomical compliance, impact projectiles, and Conductive Electrical Weapon.
 2. Members may deploy an CEW or impact projectiles against subjects who are exhibiting assaultive behavior or who are actively resisting in a manner that, in the member's judgement is likely to result in injuries to the subject, the member or others.
 3. The act of fleeing or destroying of evidence, in and of itself, does not justify the use of a CEW or impact projectiles.
 4. The ground handcuffing position should be the primary method of handcuffing at this level and above.
- D. Assaultive or Bodily Harm - The member makes the reasonable assessment that such actions by the offender are likely to result in minor injury but not serious bodily injury or death to the member or others.
1. Response: Defensive Tactics - includes active assaultive countermeasures designed to cease the subject's less-lethal assault on the member or others, regain control, and assure continued compliance. These tactics could include impact tool strikes, kicking or hand techniques, impact projectiles, CEW, etc.
- E. Assaultive Serious Bodily Injury or Death - The member's attempt to gain lawful compliance has culminated in the perception of an attack or the potential for such an attack on the member or others. The member makes the reasonable assessment that such actions by the subject could result in

serious bodily harm or death to the member or others.

1. Response: Lethal Force - includes assaultive countermeasures designed to cease an assault, which is lethal or could cause serious bodily injury to the member or others. These tactics could include the use of a firearm, vehicle, lethal strikes, etc.

4.6 Force Restrictions

A. The following tactics may be permitted in circumstances only when lethal force is authorized by this policy:

1. Any intended/targeted strike with an impact weapon or object to a person's head, neck, spine, solar plexus, and kidneys;
2. Any use of flashlights, radios, or items not issued or trained specifically as defensive weapons.
 - a. **Except**: In limited circumstances when a confrontation escalates suddenly and unpredictably, an officer may use any means or device at hand such as a flashlight, radio, and other issued equipment, to defend themselves, another person, or to bring a situation under control. This decision should be based on the circumstances surrounding the officer at the time, if the officer determines it was reasonably necessary to do so, as long as the level of defensive action is objectively reasonable given the existing circumstances.
3. Force shall not be used against persons in handcuffs, except as objectively reasonable to prevent injury to the officer or another person(s), to prevent attempted escape, or, where physical removal is necessary.

4.7 Force Prohibitions

A. No member shall utilize a prohibited restraint on another person in his or her capacity as a law enforcement officer at any time.

1. The technique commonly referred to as a vascular neck restriction is considered to be a prohibited restraint and is not authorized for use at any time.
2. Members are reminded that they are required to report such

occurrences in accordance with the Code of Conduct and that failure to intervene and also report the use of a prohibited restraint to a supervisor is considered gross professional misconduct by a law enforcement officer as defined within 23 V.S.A. § 2401 and is subject to sanctions by the Vermont Criminal Justice Council.

5.0 Procedure – Use of Lethal Force

- 5.1 The use of lethal force shall be in compliance with the procedures as stated in this policy.
- 5.2 Necessity - In evaluating the necessity to use lethal force, the member shall consider the presence of imminent danger to the member or others.
- 5.3 Imminent Danger - Imminent does not mean immediate or instantaneous, but that an action is pending. Thus, an offender may pose an imminent danger even if he/she is not at that very moment pointing a weapon at a member or another person. For example, imminent danger may exist if members have a reasonable basis to believe a subject with the capability of inflicting death or serious physical injury - or otherwise incapacitating members without a lethal weapon, is demonstrating an intention to do so.
- 5.4 A member will apply the principles of ability, opportunity and jeopardy as a guide to establish a reasonable basis for the use of lethal force, based upon their perceptions developed over the course of the incident. The three factors which, when co-existent, create the threat of serious bodily injury or death, are:
 - A. Ability - A potential adversary must be physically capable of presenting the threat of serious bodily injury or death. This ability must be present at the time the member makes the decision to respond with lethal force.
 - B. Opportunity - Circumstances of time, distance, and awareness of the victim's presence must coincide to provide the opportunity to create a risk of serious bodily harm or death to the member or third party.
 - C. Jeopardy - Given the ability and the opportunity, an adversary must commit an overt act which would cause a reasonable person to believe it would result in serious bodily injury or death to the member or a third party.
- 5.5 Officers are prohibited from pointing their firearms at or in the direction of a human being absent articulable facts that the situation may escalate to the

point where deadly force would be authorized under this policy.

6.0 Application of Lethal Force

6.1 When the decision is made to use lethal force, members may continue its application until the subject surrenders or no longer poses an imminent danger.

6.2 Even when lethal force is reasonable, members must assess whether its use creates a danger to third parties that outweighs the likely benefits of its use.

7.0 Use of Lethal Force

7.1 In addition to the provisions of Section 2.0 of this Article, the following provisions shall apply to any discharge of a firearm in the performance of duty.

7.2 Defense of Life - Members may use lethal force only when the member has reason to believe that the subject of such force poses an imminent danger of death or serious bodily injury to the member or other persons.

7.3 Fleeing subject - Lethal force may be used to prevent the escape of a fleeing subject if there is a reasonable basis to believe:

A. The subject has committed a felony involving the infliction or threatened infliction of serious bodily injury or death, and

B. The subject(s) escape would pose an imminent danger of death or serious physical injury to the member or other persons.

7.4 Verbal Warnings - If feasible, and if to do so would not increase the danger to the member or others, a verbal warning to submit to the authority of the member shall be given prior to the use of lethal force.

7.5 Warning Shots - Warning shots are not permitted under this policy.

7.6 Vehicles - Weapons may not be fired with the sole intent of disabling a moving vehicle. Weapons may be fired at the driver or other occupant of a moving motor vehicle only when the member has reason to believe that the person or persons pose an imminent danger of death or serious bodily injury to the member or others, and the use of lethal force does not create a danger to the public that outweighs the likely benefits of its use.

- A. Members are expected, when feasible, to apply tactics and positioning to avoid placing themselves at increased risk of injury from the suspect vehicle. The purpose of this is to reduce the likelihood that the member would need to apply lethal force.

7.7 Animals - The killing of an animal is justified for the following reasons:

- A. To prevent injury to the member or others.
- B. When the animal is so sick or badly injured that humanity requires its relief from further suffering.

8.0 Medical

8.1 Members shall be trained in proper treatment procedures for persons exposed to OC spray and the effects of other less-lethal force.

8.2 In the event that a subject has a visible injury, is recognized by the member as injured, or reports being injured to a member(s) regardless of whether the member perceived an actual injury; the member(s) is/are responsible to ensure that reasonable medical aid is provided as soon as it can be safely accomplished.

8.3 In instances where an obvious severe injury has occurred, medical distress is apparent, or the individual is unconscious, the member(s) is/are responsible to ensure that notification is made to have emergency medical services (EMS) personnel respond as soon as it can be safely accomplished.

8.4 After a subject has been sprayed with OC he/she should be decontaminated as soon as it can safely be accomplished.

8.5 Any injuries resulting from a deployment of force shall be documented in the Use of Force entry submitted in Guardian Tracking. This includes the name of the individual injured (subject or department member), the location of the injury, the nature of the injury, and identification of the source of any treatment provided.

- A. If the subject declines medical treatment, this decision is to be documented in Use of Force entry.
- B. Whenever possible, a member shall document sustained injuries with photographs, which are to be filed in accordance with VSP-DIR-338, Digital Camera.

9.0 Notification Requirements

- 9.1 If the member perceives an injury results or may result from a deployment of force, whether to the subject or to a department member, the member shall notify a patrol commander or watch commander and provide relevant facts. Supervisor notice shall also be made in instances of CEW deployment.

10.0 Supervisor Duties

- 10.1 It shall be the responsibility of the supervisor to collect necessary information and determine if an in-person response is prudent. All incidents of serious injury shall receive an in-person response by a patrol commander. The patrol commander shall have the discretion to determine the location of an in-person response, but shall ensure at minimum, sufficient documentation of the scene in some manner and the collection of witness information. The purpose of this action is to ensure complete and accurate documentation in the reporting process.

11.0 Reporting Requirements

- 11.1 When a member uses force in excess of compliant handcuffing, a Use of Force entry shall be completed within Guardian Tracking and submitted within 72 hours of the incident to the member's chain of command. Attached to the Use of Force entry in Guardian Tracking shall be all necessary supporting documentation. Audio/video recordings of the incident shall be reviewed by a front line supervisor and the member's commanding officer. Upon review of the Use of Force entry and supporting documentation, Troop/Criminal Division Commanders and members of the Use of Force Training Committee, on an as needed basis, may request copies of audio/video recordings be provided to further the review of the incident.
- 11.2 Any and all recordings (audio or video) of the use of force shall be filed at the local field station in accordance with VSP-DIR-334, Digital Voice Recorder and VSP-DIR-417, Audiovisual Equipment and Recordings. Only copies of recordings shall be distributed as part of the chain of command review.
- 11.3 When multiple members are involved in a deployment of force, only one member shall complete the Use of Force entry in Guardian Tracking. All other members shall complete a supplemental report and file it with the case. These shall then be attached to the Use of Force entry in Guardian Tracking.

- 11.4 The author of the Use of Force entry shall ensure every member using force in excess of compliant handcuffing, is properly identified within the report. Members using force in excess of compliant handcuffing shall be differentiated in the Use of Force entry from members present but not using force. All other members who used force in excess of compliant handcuffing shall complete a supplemental report. The member authoring the Use of Force entry shall ensure any and all applicable supplemental reports are properly attached to or included with the Use of Force entry in Guardian Tracking.
- 11.5 A supervisor should not approve or publish a Use of Force Report until all reports from members using force in excess of compliant handcuffing during the incident are compiled in the entry within Guardian Tracking.
- 11.6 All supervisors participating in the review process are responsible for ensuring the data provided is accurate and the entry contains sufficient detail to establish the use of force by the member is objectively reasonable. Each supervisor conducting a review will supply written documentation in the form of a comment upon completion of his or her review.
- A. The comment from a supervisor will, at a minimum, address whether the use of force was in compliance with policy. If pertinent, the supervisor will also identify if the action(s) require(s) further investigation, along with recommendations on equipment upgrades, training, or other issues.
- 11.7 Any supervisor, following review of the materials entered in Guardian Tracking and if necessary, consultation with the member for clarification purposes, identifies a member's use of force as not meeting the objectively reasonable standard, he or she shall make notifications as outlined in the provisions of VSP-GEN-205; Receipt, Reporting, and Investigation of Allegations.
- 11.8 Review of Use of Force entries within Guardian Tracking by a member's front line supervisor and a member's commanding officer will be completed within 20 days of occurrence. Use of Force Reports will be forwarded to the Use of Force Committee for review within 30 days of occurrence.
- 11.9 A member discharging a firearm in the performance of duty, other than as outlined in 7.0 of this Article and except for training purposes, shall immediately notify his/her supervisor and shall forward a written report to his/her Commanding Officer within twenty-four (24) hours detailing the circumstances surrounding the firearms discharge.

11.10 Any application of lethal force or use of force that results in death shall be investigated by the Vermont State Police Criminal Division. The member(s) involved shall NOT complete a Use of Force Report in Guardian Tracking.

11.11 After each deployment of OC, members will complete an OC Deployment Advisory Questionnaire. ([OC Administrative Warning 294 OC](#))

12.0 Training

12.1 Members shall complete a block of instruction on weaponless control techniques and/or other less-lethal tools as identified in this policy on an annual basis. During this block of instruction, a review of the use of force policy will be conducted. Members shall demonstrate proficiency, as determined by the Department Lead Use of Force Instructor or other department use of force and tactics instructors. Any member serving in the capacity of a use of force and tactics instructor must annually complete training designated by the Vermont Criminal Justice Council.

12.2 Members shall demonstrate proficiency, as determined by the firearms training staff, through a department prescribed course, and must qualify with each authorized firearm for the member. All members will qualify at least annually with their firearm(s), which shall include a review of this policy. Vermont Criminal Justice Council certified firearms instructors will conduct this training.

12.3 In the event a member is unable to certify or re-certify in weaponless control techniques, less-lethal use of force tools or any department authorized less-lethal weapon, the member will undergo on-site remedial training from a department use of force and tactics instructor and offered another opportunity to demonstrate proficiency. If following this on-site remedial training the member does not show improvement, the remedial training procedures within VSP-DIR-326 Firearms will be followed, except that the remedial training will focus on the weaponless control technique(s) and/or tactic(s); and/or the less lethal tool/weapon(s) with the which the member failed to demonstrate proficiency.

12.4 In the event a member is unable to certify, re-certify, or qualify with any department authorized firearm which the member is trained to carry, the remedial training procedures within VSP-DIR-326 Firearms will be followed.

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