

# SOUTH BURLINGTON POLICE DEPARTMENT

## PR 302: Use of Force

Effective: 8/1/2022

Updated: 7/19/2022

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### 1. PURPOSE

*This is a statewide use of force policy created pursuant to Executive Order 03-20. This policy is a guide and shall not be construed as creating any substantive or procedural rights enforceable at law by any party in any civil, criminal, or administrative matter. It only applies in internal agency or Criminal Justice Council proceedings, as appropriate. This policy shall not be construed as creating a higher legal standard of care with respect to third party claims. This policy and its appendices are subject to the considerations in this introduction as well as the definitions that follow, and shall be construed consistent with any law governing the use of force, including 20 V.S.A. § 2368.*

Every law enforcement officer in Vermont is committed to upholding the Constitution, as well as the laws of the United States and Vermont, while defending the civil rights and dignity of all persons. Whenever possible, police seek to accomplish lawful objectives through cooperation with the public and with minimal reliance on physical force to overcome resistance.

There are times when use of force against a citizen is unavoidable. In these cases, the decision to use force should not be undertaken lightly and the facts and circumstances of each case must be evaluated carefully and thoroughly. Many times, this analysis must be made in a split second under tense and rapidly evolving circumstances.

While force is used in response to a subject's behavior, officers should recognize that their own conduct can contribute to the need to use force. Whenever feasible and safe for all involved, officers should seek to use de-escalation techniques, which include effective communication skills and use of available resources to reduce the need to use force.

Nothing in this policy should be construed to require officers to assume unreasonable risks in the performance of their duties. The safety of the officer(s) and the public is paramount. Officers who fail to use timely and adequate force when it is necessary may endanger themselves, the community and fellow officers. Conversely, officers who use unreasonable force degrade the community's confidence in the police and expose themselves and the agency to legal risks.

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### 2. POLICY STATEMENT

This agency believes in the sanctity of every human life and in the value of de-escalation and effective communication. When force is necessary to bring an event or incident under control, officers will use only objectively reasonable force to accomplish lawful objectives.

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### 3. DEFINITIONS

- A. **Active resistance** - A subject using physical activity to resist or take affirmative action to defeat an officer's ability to take them into custody or to seize them, but the subject's actions would not lead a reasonable officer to perceive a risk of physical injury to them self,

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the subject, or a third person. Examples of active resistance include pulling away, escaping or fleeing, struggling and not complying on physical contact.

- B. **Passive resistance** – A subject who takes no affirmative action to defeat police efforts to make an arrest but who does not respond to verbal commands and may refuse to move by sitting down, acting as “dead weight” or similar.
- C. **Active aggression** - Behavior that an objectively reasonable officer would believe creates an imminent risk of physical injury to the subject, officer, or third party, but would not lead a reasonable officer to perceive a risk of death or serious bodily injury. Examples include an attack on an officer, strikes, wrestling, undirected strikes with injury potential, kicking, shoving, punching, and other words or behavior indicating that such actions are imminent.
- D. **Deadly force** – Any use of force that creates a substantial risk of causing death or serious bodily injury.<sup>1</sup> Also referred to as lethal force.
- E. **De-escalation** - Actions used by officers, when safe and feasible without compromising law-enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of gaining voluntary compliance from a subject. This generally refers to the act of moving from a state of high tension to a state of reduced tension. Common de-escalation techniques include deliberately slowing the progression of law enforcement actions, using barriers, cover and distance, as well as communicating in a calm, clear manner, using active listening skills and asking open ended questions. When appropriate *and available*, officers should consider calling in and relying on resources, such as crisis teams or embedded social workers, to assist in de-escalating a situation.
- F. **Force** – Physical coercion employed by a law enforcement officer to compel a person’s compliance with the officer’s instructions.<sup>2</sup> For the purpose of this policy, this includes all law enforcement actions beyond compliant handcuffing.
- G. **Imminent threat of death or serious bodily injury** – Based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity and apparent intent to immediately cause death or serious bodily injury to the law enforcement officer or another person. An imminent threat is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of harm, but is one that, from appearances, must be immediately addressed and confronted.<sup>3</sup>
- H. **Intervene** – To come between, whether physically or verbally, to prevent or alter a result or course of events.

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<sup>1</sup> H.145 language (a)(2)

H.145 language (a)(3)

<sup>3</sup> H.145 language (a)(4)

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- I. **Law enforcement officer** – Shall have the same meaning as 20 VSA 2351a<sup>4</sup>, used interchangeably with “officer.”
- J. **Necessary** - When a reasonable officer with the same information and in the same situation would conclude that no reasonably effective alternative appears to exist.
- K. **Objectively reasonable** - Whether the decision by a law enforcement officer to use force was objectively reasonable shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances. A law enforcement officer’s failure to use feasible and reasonable alternatives to force shall be a consideration for whether its use was objectively reasonable. The calculus of reasonableness must allow for the fact that police officers are often forced to make split-second decisions about the amount of force that is necessary in a particular situation, in circumstances that are tense, uncertain, dynamic and rapidly evolving.

Factors to be considered in determining the objective reasonableness of force include, but are not limited to:

- The seriousness of the crime or suspected offense;
  - The level of threat or resistance presented by the subject(s) (e.g. proximity to weapons, potential for escape, availability of other resources or officer backup);
  - Whether the subject was posing an immediate threat to officers or a danger to the community;
  - The potential for injury to citizens, officers or subjects (e.g. levels of exhaustion, relative size, strength, skill level, age of suspect versus officer as well as number of officers versus subject(s)).
- L. **Chokehold**– means the use of any maneuver on a person that employs a lateral vascular neck restraint, carotid restraint, or other action that applies any pressure to the throat, windpipe, or neck in a manner that limits the person’s breathing or blood flow.<sup>5</sup>
  - M. **Proportional** - To be proportional, the level of force applied must reflect the totality of circumstances surrounding the situation at hand, including the nature and immediacy of any threats posed to officers and others. Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.

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<sup>4</sup> H.145 language (a)(5)

<sup>5</sup> H.145 language (a)(1)

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- N. **Totality of the circumstances** – means the conduct and decisions of the law enforcement officer leading up to the use of force and all facts known to the law enforcement officer at the time, including the conduct of the person or persons involved.<sup>6</sup>

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#### 4. CONSIDERATIONS PRIOR TO FORCE BEING USED

The authority of law enforcement to use physical force is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and with sanctity for every human life. Every person has a right to be free from excessive force by officers acting under authority of the State.<sup>7</sup> The decision by a law enforcement officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by law enforcement officers, in order to ensure that officers use force consistent with law and with agency policies.<sup>8</sup> Agencies shall provide officers with training, clear policy guidelines and supervision on use of force consistent with law and policy.

Use of force is intended only to control behaviors and situations while accomplishing a lawful purpose. It is never intended to be punitive. Officers must constantly re-assess the totality of the circumstances in any encounter where force is necessary to gain compliance from an individual. A law enforcement officer shall use only the force objectively reasonable, necessary and proportional to effect an arrest, to prevent escape or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime or to achieve any other lawful law enforcement objective.<sup>9</sup> Whenever feasible, officers shall allow individuals reasonable time to submit to arrest or detention before force is used.

**When possible, officers shall use de-escalation tactics.** This includes taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation, reduce the likelihood that force will be necessary and increase the likelihood of cooperation from the person. The goal of de-escalation is to reduce the immediacy of a threat so that more time, options, and resources can be called upon to resolve the situation without force or with a reduction in the amount of force necessary. This commitment to de-escalation means that officers should not knowingly create exigency or take actions that may increase the likelihood of force becoming necessary.

De-escalation may include the use of such techniques as scene management; calm, respectful and clear communication; use of warnings; verbal persuasion; deliberately slowing the progression of law enforcement actions; creating more space between the officer and person; using cover or barriers; and team tactics. Even as a use of force encounter is happening, de-

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<sup>6</sup> H.145language (a)(6)

<sup>7</sup> H.145language (b)(3)

<sup>8</sup> H.145 language (b)(4)

<sup>9</sup> H.145language (b)(2)

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escalation must be re-evaluated so that if the level of resistance offered by the subject goes down, so should the officer's response.

**Special situations:** Appendix D provides guidelines for interacting with persons experiencing mental impairment. When a law enforcement officer knows that a subject's conduct is the result of a medical condition, mental impairment, developmental disability, physical limitation, language barrier, drug or alcohol impairment, or other factor beyond the subject's control, the officer shall take that information into account in determining the amount of force appropriate to use on the subject, if any.<sup>10</sup> This is especially important when responding to calls for service that are non-criminal in nature such as a welfare check or a known mental health crisis. Police use of force is in response to behaviors, and the underlying cause of those behaviors may not always be apparent during a police-citizen encounter. Some people with mental and physical impairments may be unable to comply with police requests for reasons beyond their control. Intoxicated or otherwise impaired individuals may also have a compromised ability to understand or comply with commands from police. When officers have knowledge of these disabilities or conditions, they should factor this knowledge into their response to these individuals, so long as it is safe to do so. When time allows during interactions with such persons, officers should emphasize de-escalation as well as the ability to use time and physical distance to reduce the likelihood of force being necessary.

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### 5. LESS LETHAL FORCE

The dynamics of all encounters are unique. It is impossible to attempt to categorize and define the levels of force appropriate in any given situation or set of variables. When an officer determines that use of force is necessary and appropriate, the officer shall utilize objectively reasonable force. Officers should modulate their use of force as resistance changes.

In determining whether a particular use of force is objectively reasonable, the officer must consider:

- A. The seriousness of the offense the officer believes the subject is involved in;
- B. Whether or not the subject poses an immediate physical threat to the officer or others;
- C. The degree of the threat posed by the subject;
- D. Whether the subject is actively resisting or attempting to evade arrest/detention by flight;
- E. Whether the totality of the circumstances justifies the officer's response.

Agencies shall provide officers with a range of force options and appropriate training or certification on these tools or techniques. Not all agencies will have the same force options. Officers may only carry tools/weapons that are approved by the agency and for which they have been trained. Officers must comply with all training requirements of the Vermont Criminal Justice Council. Agencies must provide policy guidance on the use of agency-approved tools or weapons. Improvised tools as described in section C below are not subject to the approval and training in this paragraph.

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<sup>10</sup> H.145 (b)(5)

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Officers are responsible for visually inspecting their issued equipment prior to each shift and testing any equipment consistent with training and manufacturer's recommendations. Any equipment that the officer knows is not functioning properly shall not be used.

When an officer meets resistance in the performance of lawful duties, reasonable attempts to inform the subject of the reason the officer is taking relevant actions should be made. To the extent feasible, persuasion and de-escalation should be used and officers should take reasonable steps to provide accessible, effective communication.

When a subject is not compliant, response to resistance can be addressed by "empty-hand" techniques or in some circumstances, using tools designed to bring a situation under control.

Examples of empty-hand techniques include:

- A. **Officer Presence/Verbal Commands/Persuasion:** While not a use of force, officer presence and communication can be an effective way to control a situation. Officers should use effective communication skills when practical. Persuasion may occur by a show of authority either by a uniform presence or obvious identification as a police officer. Verbal and non-verbal commands should be given to direct and let the subject know what is expected of them. Officers should document their verbal orders regarding arrest, investigative detention, or protective custody, verbal warnings regarding non-compliance and the results. The subject should be informed as to the reason for detention as soon as practical.

The option of officer presence and verbal commands should not be construed to suggest that an officer risk losing control of a situation, or potentially endanger the safety of themselves or others, where the use of escalated force is the proper choice.

- B. **Control/Restraint (including soft empty-handed control techniques):** Officers may use a variety of techniques in accordance with their training to gain compliance of passively or actively resistant subjects including but not limited to techniques using their hands, elbows, arms, legs and bodies.

Common tools used in police use of force include:

- A. **Aerosol Agents:** Aerosol Agents are designed to respond to various threat levels and may be utilized to address subjects who are actively resisting. When an aerosol agent has been used an officer shall, as soon as practical, provide the subject with the Administrative Warning form (See Appendix B) in preparation for providing care for the individual contaminated by the product. Decontamination should occur as soon as practical following the application of an aerosolized agent.

Oleoresin Capsicum (OC) 10% solution is an example of an aerosol agent used by some departments. It may be issued in one of several delivery systems including individual "fog" spray, or individual "stream" spray, or a crowd control "fog" system. The crowd control

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“fog” system may be used in special circumstances and must be authorized by the Officer in Charge.

- B. **Conducted Energy Weapon (CEW):** See statewide policy on CEW use. In addition to the statewide policy, officers must carry a CEW in a “cross draw” manner that is over the midline of their body toward their non-firearm side or on their non-firearm side in a “support hand draw” manner.
- C. **Police Batons:** A fixed or expandable impact and control weapon. The baton is designed to respond to various threat levels. Since the levels of force used in response to threats differ, the officer must evaluate the level of the threat to determine the appropriate techniques to be employed. Batons can be used in accordance with approved techniques and target areas as a tool for control and restraint techniques, impact techniques and as an instrument to assist in the movement of individuals or groups of individuals. There may be exigent circumstances that prevent the use of a baton but require the use of an impact device due to the level and immediacy of a threat. In such circumstances, an officer may utilize alternate techniques or devices, as good judgment would deem appropriate, such as the use of arms and legs, flashlight, clipboard or other such method.
- D. **Handcuffing:** All officers of the South Burlington Police Department who handcuff a subject will, as soon as reasonably possible, check the handcuffs for proper fit and double lock them for safety.

**Additionally, under circumstances that present an *imminent risk of serious bodily injury or death*, that from appearances must be immediately addressed and confronted, improvised weapons such as pens, knives carried by officers to cut ligatures and seat belts and other such tools or instruments could be used.**

- E. **Use of police canines (K-9):** Canines can be used in numerous ways that are not considered a use of force such as search and rescue or evidence searches. When used as a force option to protect the handler and/or others or to apprehend a person, canines are generally considered to be commensurate to an impact tool. An example of using canines at a lower level of force is a sit watch to monitor subjects who have been detained. See agency policy on use of police canines for more information.
- F. **Less Lethal Impact Munitions (LLIMs) or impact projectiles:** LLIMs are designed to function as extended range impact weapons and their use is justified whenever use of an impact technique is appropriate. The intended role of less lethal munitions is to immobilize resistant persons at safe distances to prevent injury to officers or the public. LLIMs are discharged only by specially trained officers called “Grenadiers.”

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- i. LLIMs may be used to prevent the escape of suspects under appropriate circumstances. In these cases, the severity of the threat posed by the continued freedom of the suspect must be carefully weighed.
  - ii. LLIMs are also effective in crowd control and riot situations. When their use is anticipated in this capacity, the Grenadier will obtain clearance from the Officer in Charge prior to deploying one or more LLIMs. (NOTE: Crowd control policy further informs this area of operations. No use of force action, including LLIMs, shall be used during peaceful protests and demonstrations.)
  - iii. The decision to use LLIMs should never be done at the risk of officers' safety or that of the public. Officers should not assume unreasonable risks in deploying LLIMs against a suspect threatening to use deadly force.
  - iv. If a suspect is threatening to use deadly force and LLIMs offer an opportunity to resolve the incident without use of deadly force, LLIMs may be deployed if:
    - a. The scene is contained and there are not active attempts of serious bodily injury; and
    - b. There is adequate staff on scene to supplement the use of LLIMs with deadly force options should LLIMs fail to control the suspect and result in further deterioration of the incident.
  - v. LLIMs may be used against wild and domestic animals to drive them away or to deter an attack. Where an animal poses a threat of bodily injury or must be euthanized, conventional firearms should be used.
- G. **Firearms (Lethal Force):** see section 6 below.
- H. **Factors in Choosing the Level of Force Deployed:** Circumstances that may be considered in the officer's assessment of physical threat and the appropriate use of force include, but are not limited to, the following:
- i. Severity of the offense or significance of the need to apprehend the subject;
  - ii. Age;
  - iii. Size;
  - iv. Skill level (whether they possess knowledge of martial arts, advanced fighting techniques, etc.);
  - v. Number of suspects;
  - vi. Whether the suspect is armed or reported to be armed;
  - vii. Actual proximity to weapons;



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- viii. Prior experience with the suspect(s);
- ix. Location of the encounter;
- x. Background or peripheral hazards;
- xi. The subject's response to commands/instructions;
- xii. Availability of cover for the officer(s);
- xiii. Physical condition and position of the officer and subject(s) – are there injuries, is the officer on the ground or in a compromised position;
- xiv. Time considerations – when possible officers should seek to use additional time to their advantage to reduce the likelihood of having to use force through planning. Other time considerations include the action/reaction lag time, as well as the uncertainty of any response or instrument instantly stopping a threat.
- xv. When a law enforcement officer knows that a subject's conduct is the result of a medical condition, mental impairment, developmental disability, physical limitation, language barrier, drug or alcohol impairment, or other factor beyond the subject's control, the officer shall take that information into account in determining the amount of force appropriate to use on the subject, if any.<sup>11</sup>

Officers are not required to use or consider alternatives that increase danger to themselves or to others. Nothing in this policy requires officers to assume unreasonable risks. In assessing the appropriate use of force, the safety of the public and the officer(s) is paramount.

All tools/devices intended for police use of force should be securely carried in their approved holders when performing uniform patrol functions. Tools should only be removed from their holders when their use is anticipated, for inspection or testing, or for storage in secure areas such as prior to entering interview rooms, booking facilities or while fingerprinting.

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## 6. LETHAL FORCE

**General:** Lethal force is used to stop an action that could reasonably result in death or serious bodily injury to a person.

Agencies must specify what types of firearms, ammunition or other lethal force tools are authorized for use by officers.

Agencies shall also provide guidance on care, safe handling, storage and inspections of all lethal force tools.

**Use of Force Authorization:** An officer is justified in using deadly force upon another person only when, based on the totality of the circumstances, such force is objectively reasonable and necessary to:

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<sup>11</sup> H.145 language (b)(5)

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1. Defend against an imminent threat of death or serious bodily injury to the officer or to another person; or
2. Apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.<sup>12</sup>

The use of deadly force is necessary when given the totality of the circumstances, an objectively reasonable law enforcement officer in the same situation would conclude that there was no reasonable alternative to the use of deadly force that would prevent death or serious bodily injury to the officer or to another person.<sup>13</sup>

A law enforcement officer shall cease the use of deadly force as soon as the subject is under the officer's control or no longer poses an imminent threat of death or serious bodily injury to the officer or to another person.<sup>14</sup>

Even when lethal force is permissible, officers should assess whether its use creates a danger to third parties that outweighs the likely benefits of its use. For example, background or peripheral environments should be considered.

In the event an officer uses force that results in the death or serious bodily injury of a person, the procedure found in Appendix A "*Lethal force post-incident procedures and statewide policy on review of BWC recordings following lethal force incidents*" shall apply.

**Verbal warning:** When feasible, an officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a law enforcement officer and to warn that deadly force may be used.<sup>15</sup>

### **Lethal force restrictions:**

- A. Officers shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.<sup>16</sup> Put more simply, officers shall refrain from using deadly force against a person who is only posing a threat to their own life and no other.
- B. Chokeholds: A law enforcement officer shall not use a chokehold on a person unless deadly force is justified pursuant to 20 V.S.A. § 2368 (c) (1 – 4).<sup>17</sup>
- C. Warning shots: Are strictly prohibited.

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<sup>12</sup> H.145 language (c)(1 A & 1 B)

<sup>13</sup> H.145 language (c)(2)

<sup>14</sup> H.145 language (c)(3)

<sup>15</sup> H.145 language (c)(5)

<sup>16</sup> H.145 language (c)(4)

<sup>17</sup> H.145 language ((c)(6)

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- D. Discharging a Firearm and Moving Vehicles: An officer will not discharge a firearm at or from a moving vehicle unless: a person in the vehicle is threatening the officer or another person with lethal force other than the vehicle; or, the vehicle is operated to deliberately strike a person(s) and all other means of defense (including moving out of the path of the vehicle) have been exhausted or are not practical.
- E. Unholstering Firearms: Firearms should only be drawn when an officer has reason to fear for their safety or the safety of others (see section 9 (A.) below), and at no other time in any public place, except for humane destruction of an animal described below.
- F. Dangerous/Injured Animals: Firearms may be utilized to euthanize a dangerous animal or one so badly injured that humanity requires its removal from further suffering when no other disposition is reasonably practical.
- G. Alcohol or Drugs: Officers will not use any Department issued or approved firearm while under the influence of alcohol or regulated drugs not otherwise prescribed by a medical professional.

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### 7. DUTY TO INTERVENE

All officers have an affirmative duty to intervene whenever they witness another officer using a chokehold or using excessive force.<sup>18</sup> In addition, officers shall report any instance of excessive force or use of a chokehold to a supervisor prior to the end of the shift during which it occurred.

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### 8. DUTY OF CARE

Whenever a person in an officer's care or custody sustains an injury, becomes unconscious, displays a further altered mental status, or states that they are injured, the officer must provide, timely summon, or obtain appropriate medical attention. This applies whether the officer used force or not, and whether the person's condition preceded custody. Officers will provide care commensurate with their training and experience and officers will quickly summon emergency medical assistance when needed.

Additionally, any time a person has been sprayed with an aerosolized agent that causes irritation, they will be decontaminated as soon as practical. Officers will read the OC administrative warning form to the person being decontaminated. (See Appendix B)

When practical, supervisors will respond to scenes where a use of force occurred or is likely to occur. Anytime an application of force results in injury or complaint of injury the supervisor will complete a preliminary review of the incident including a brief narrative documenting the scene, witnesses present, and their statements; obtain a medical release from the subject if possible,

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<sup>18</sup> H.145(b)(7)

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photograph or video record the scene and the involved persons documenting injuries or lack thereof.

**If an application of force results in injury, complaint of injury, or involves a lethal use of force as defined in this General Order the involved officer(s) will notify a supervisor, that supervisor shall respond to the scene.**

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### 9. REPORTING & SUPERVISORY REVIEW

A. Reporting – Whenever an officer uses force beyond compliant handcuffing, they will complete a Use of Force Report via the Response to Resistance tab in Valcour. Involved officers will identify all relevant supporting documentation such as recordings, witness statements, etc. within 72 hours, except in the following circumstances:

1. The officer is injured or otherwise unable to complete the report, in which case the officer shall provide the necessary information verbally to a supervisor as soon as practical.
2. When lethal force is used, or whenever the actions of an officer result in death or serious bodily injury to a person, the officer will not complete a Use of Force Report. Instead, an administrative investigation will be completed. The administrative investigation team will complete the data required in the Use of Force Report.
3. In cases where multiple officers use force in excess of compliant handcuffing during an incident, each officer will author a Use of Force Report which clearly names all officers who were present.

**Pointing the muzzle of a firearm at or in the direction of a person is considered a use of force.** Officers shall not point the muzzle of a firearm at or in the direction of a person absent articulable facts that the situation may escalate to the point where use of lethal force would be justified. Drawing or maintaining a firearm at a ready position may be considered as a use of force if it is done during an encounter with a subject(s) or within view of the public. There is a clear distinction between escalating the use of force by unholstering a firearm during an encounter with others, versus unholstering a firearm during a building search, execution of a search warrant or any other activity in which only law enforcement personnel are present.

Use of Force Reports shall contain details of the persons actions and the officer's responses. Officers should take reasonable steps to gather and preserve any electronic or physical evidence, including witness statements, regarding use of force incidents.

B. Supervisory review procedure – A supervisor will review the Use of Force Report and all supporting documentation. At a minimum, supervisory review includes:

- i. The first line supervisor shall insure that the information submitted is complete and all required data is present.

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- ii. The use of force committee shall determine if the use of force was objectively reasonable and consistent with this policy and indicate their approval or disapproval of the use of force being reasonable.
- iii. The use of force committee shall identify any need for training, performance counseling or other administrative action and forward those findings to the designated lieutenant.
- iv. If necessary, consulting with the officer or returning the report for more information.
- v. Supervisory review of whether the decision by an officer to use force was objectively reasonable shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances. A law enforcement officer's failure to use feasible and reasonable alternatives to force shall be a consideration for whether its use was objectively reasonable.<sup>19</sup>
- vi. The Chief of Police shall make a referral to the Vermont Criminal Justice Council pursuant to 20 V.S.A. §2401 (2)(C) anytime a finding of excessive use of force is made.
- vii. The Chief of Police shall make a report to appropriate authorities if the review uncovers evidence that a crime has been committed.

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### 10. ADMINISTRATIVE INVESTIGATION

The Vermont law enforcement community recognizes the enormous responsibility that comes with the authority to use force. As guardians of our communities, the police must ensure that all uses of force, but especially those resulting in death or serious bodily injury, are thoroughly reviewed.

Anytime an officer employs lethal force or takes action that results in death or serious bodily injury to a person, the agency shall conduct an administrative investigation. This investigation is separate from any criminal investigation that may occur. The agency may employ outside assistance to conduct the administrative review. The purpose of the review is to document the incident, complete required Use of Force report(s), determine if the incident is within policy, identify areas for improvement and to determine if there are any training or policy implications.

This investigation may result in remedial training, recommendations for discipline or commendation, or recommendations for policy revision. [See Appendix A for more information]

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### 11. TRAINING

At a minimum, officers must comply with all certification and in-service training standards of the Vermont Criminal Justice Council. For the purpose of annual certification, only use of force and tactics training conducted by instructors certified by the Vermont Criminal Justice Council is acceptable. All officers will receive a copy of and training on use of force policies at least annually and all training will be documented. In addition, all officers shall be trained on ways to avoid confrontations, de-escalate conflict and recognize during a physical confrontation when de-escalation must occur.

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<sup>19</sup> H.145 language (b)(1)

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If an agency considers sending officers to additional use of force or tactics training, the CEO should carefully review the content and philosophy of the training to ensure that it is consistent with Vermont law and this policy. Agencies are cautioned that standards for police use of force vary widely across the country and considerable scrutiny should be given to other trainings. Material from outside resources may not be introduced into the use of force training curricula for Vermont law enforcement officers unless the additional content has been reviewed by the VCJC Use of Force Committee and approved by the VCJC.

An officer shall not be permitted to carry or use a weapon unless they have been trained and qualified in its proficient use as determined by training procedures. This training and qualification will be documented and kept by the Administrative Sergeant.

The exception to this is a small folding pocket knife as outlined in AD-127: Personal Appearance.

### ***References:***

"8 Can't Wait" from Campaign Zero  
An Introduction to Vermont Criminal Law, Edition XIV revised 2018  
Burlington, VT Department Directive 05 "Use of Force" revised June 17, 2020  
Camden County, NJ Police Department policy "Use of Force" revised 08/21/2019  
Federal Executive Order #13929 issued June 16, 2020  
Final Report of the Major Cities Chiefs Association Police Reform Working Group January 2021  
National Consensus Policy on Use of Force 2020  
Police Executive Research Forum's Guiding Principles on Use of Force  
Seattle, WA Police Department Manual, Title 8 "Use of Force"  
South Burlington Police Department PR-302 "Use of Force"  
United Nations Code of Conduct on Use of Force  
Use of Force Policies: Dispelling the Myths by Lexipol  
VT Act 165 & VT H.145 spring 2021  
VT League of Cities & Towns policy "Response to Resistance" revised 2020  
VT State Police DIR-701, 702, 703 Use of Force, Reporting & Training

APPROVED BY:



DATE: 07/19/2022

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