

## Use of Force

**PURPOSE:** To establish guidelines, restrictions and post-incident procedures regarding the use of force. To provide an understanding of the use of force continuum and guidelines for the escalation and de-escalation of force. To provide criteria for the type of equipment officers may utilize in the performance of their duties.

**POLICY:** It is the policy of this department that officers may employ objectively reasonable use of force to accomplish a legal purpose. The degree of force used depends on what the officer perceives as being objectively reasonable under the circumstances.

The policy is not to be construed to require officers to assume unreasonable risks. In assessing the need to use lethal force, the paramount consideration should always be the safety of the officer and the public. The reasonableness of an officer's decision to use lethal force under this policy must be viewed from the perspective of the officer on the scene, who may often be forced to make split second decisions in circumstances that are tense, uncertain, and rapidly evolving, and without the advantage of 20/20 hindsight.

**DEFINITIONS:** The dynamics of all encounters are different; it would be impossible to attempt to list and define the levels of force appropriate in any given situation. It is, however, reasonable to categorize the levels of force that may be used to various degrees in any situation. When an officer determines it is objectively reasonable to use force, the officer shall to the extent possible, utilize an escalating or de-escalating level of force as determined by the particular needs of the situation.

**Serious Bodily Injury:** Means bodily injury, which creates a substantial risk of death or which causes substantial loss or impairment of the function of any body member or organ, or substantial impairment of health or substantial disfigurement.

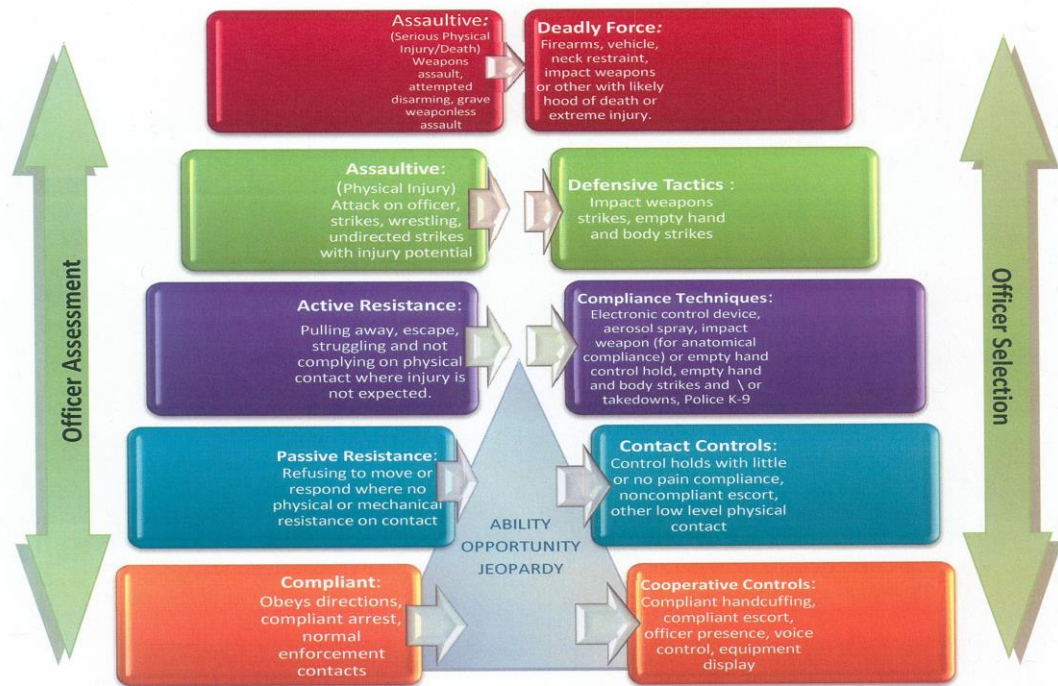
**Probable Cause:** Knowledge of the facts and circumstances at the time of an encounter, which would lead a reasonable and prudent police officer to conclude a person was in imminent danger of serious bodily injury.

**Sworn Officer:** For the purpose of this policy, "sworn officer" shall mean any member of the Department of Motor Vehicles who is certified as a full-time law enforcement officer through the Vermont Criminal Justice Training Council.

**Imminent:** About to occur or impending.

**Less Lethal:** Any weapon that when used is neither intended nor expected to cause serious bodily injury or death. Examples include O.C. Spray, batons and personal bodily weapons, i.e. – hands, knees, feet and so on.

**Use-of-Force Model:** An objectively reasonable escalation and de-escalation of force measured by the actions and dynamics of the situation in which the officer is involved. The use-of-force continuum used shall be that which is recommended by the Vermont Criminal Justice Training Council.



**Officer's Presence:** The officer arriving on the scene, once identified, is the first use of force. The mere presence of a uniformed officer may move or break up a crowd; often that is all the force required.

**Verbal Commands:** After arriving on the scene, the officer may have to move to the next level of force by trying to persuade the subject to comply with the officer's commands. Telling the subject "stand over there" or "let me see your license" are examples of verbal commands.

**Passive Control:** Light subject control is considered a passive control measure. This is the first step in seeking compliance with the officer's commands. Escorting an intoxicated subject out of a vehicle would be a good example of passive control. This may require some light inoffensive physical touching. An example would be the "compliant escort."

**Chemical Agent / Spray:** Oleoresin Capsicum (O.C.) is the first less-lethal weapon used in the continuum. O.C. being a pepper-based spray will not cause any injury or long lasting effects to a subject.

**Physical Force:** Physical force involves actual physical contact with a subject and forcibly subduing that individual until resistance is overcome. An example would include unarmed control and restraint

defensive tactics, in which an officer could strike a subject with their body and / or use a baton for the purpose of gaining anatomical compliance.

**Intermediate Force:** Intermediate force involves the use of a less-lethal object for the purpose of utilizing an impact technique to gain compliance and control. The police baton will be the standard impact device to be utilized by officers. There are circumstances understood to be exigent in nature by the level and immediacy of a threat in which a police baton may not be able to be used, even though an impact device would be appropriate. In such circumstances, an officer may utilize alternate techniques or devices, as good judgment would deem appropriate. An example of such device would include a flashlight, clipboard or other field expedient object.

**Deadly Force:** Any assault or confinement which the perpetrator commits with the purpose of or which would be reasonably expected to cause death or serious bodily injury.

**Objectively Reasonable:** For the purpose of this policy “Objectively Reasonable” shall mean: Facts and circumstances that would lead a reasonable and prudent law enforcement officer to believe the officer’s level of force was appropriate. This evaluation must always be based solely on the officer’s knowledge and perception of a situation at the time of the incident.

Factors considered when using force shall be based on the officer’s perception at the time of the incident. Such factors include, but are not limited to:

- Age
- Size
- Gender
- Skill Level(s)
- Number of officers vs. number of perceived adversaries
- Injury or exhaustion
- Being in close proximity to a weapon(s)
- Having special knowledge (before the fact)
- Being grounded
- Observance of pre-assault cues, i.e. – target glancing, sudden movements, repeated phrases, unusual sweating, jaw / fist clenching, neck rubbing, 1000 yard stare, placing personal items down, rolling up sleeves, personalizing the situation, timbering, furtive movements and so on.

**The use of deadly force by officers is prohibited except as follows:**

- a. **When in defense of human life;**
- b. **When the officer has probable cause to believe the use of deadly force is in the defense of any person, including the officer, who is in imminent danger of death or serious bodily injury.**

**CONTENTS:**

I.	General
II.	Training
III.	Authorized Weapons
IV.	Firearms
V.	Less-Lethal / Lethal Weapons
VI.	Handcuffing
VII.	Safety / Restriction
VIII.	Inspection
IX.	Records

X. Medical Aid  
Appendix A – Approved List

I. General

- A. Sworn officers of the Department of Motor Vehicles will use objectively reasonable force when controlling a situation, effecting an arrest, overcoming resistance to arrest, maintaining or regaining custody of an individual or when defending themselves or others from harm.
- B. When the use of force is required, the degree of force employed should be that which is reasonable to overcome the resistance or immediate threat that the person poses to the officer or others.
- C. The use of force by officers of this department will, whenever possible, be progressive in nature. This force may be in the form of advice, warnings, persuasion, verbal commands, passive control, use of chemical agents, physical contact controls and strikes, baton or other less-lethal weapons or the use of deadly force.
- D. Officers must weigh the circumstances of each case and employ only that amount of force which is objectively reasonable to control the situation or persons.
- E. Officers will be trained and certified in the utilization of less-lethal use of force methods and techniques which will include the Vermont Criminal Justice Training Council's approved Use-of-Force & Tactics curriculum, use of Oleoresin Capsicum (O.C. Spray) and the use of an intermediate weapon (Baton). Training in the use of the aforementioned less-lethal weapons and techniques will be conducted in accordance with the guidelines and in a manner set forth by the Vermont Criminal Justice Training Council. Instructors in the use of less-lethal use of force will be re-certified in accordance with Vermont Criminal Justice Training Council requirements.
- F. Sworn officers of the Department of Motor Vehicles are authorized to carry a personally owned long gun in their department issued vehicles. The officers who carry these weapons and the weapons to be carried must meet all of the criteria as set forth in this policy. Any expenses incurred to carry a long gun as set forth in this policy are the responsibility of each individual officer.
- G. Officers shall carry only issued or approved weapons on duty and shall carry issued weapons outside the state of Vermont only with the direct specific approval of the Director of Enforcement & Safety.

II. Training

- A. All sworn officers shall be issued a copy of this policy and receive classroom training on its contents prior to being authorized to carry a firearm or less-lethal weapon. This training will be conducted annually.
- B. Only officers demonstrating proficiency, as determined by the firearms training staff, through a prescribed course of fire with agency authorized firearms will be allowed to carry such firearm.
- C. All officers will qualify at least annually with their firearm(s). Certified firearms instructors will conduct this training.
- D. Officers who fail to receive a pass score with their duty weapon(s) in accordance with department testing shall be placed on restricted duty that will not require carrying a firearm. A member of the

- firearms training staff will give remedial training to the officer as soon as possible. This remedial training will be documented and kept in the department training file.
- E. The department neither encourages nor discourages the carrying of an off-duty firearm.
  - F. All officers will be trained and certified in the use of O.C. Spray and shall demonstrate their proficiency in accordance with departmental training.
  - G. Records of certification of an officer's proficiency with any approved intermediate weapon(s) will be kept in the department's training files.
  - H. In the event an officer is unable to certify or re-certify in the use of a less-lethal weapon, the officer will be unable to carry that weapon. The officer will undergo remedial training by a Vermont Criminal Justice Training Council certified instructor in the use of that weapon until proficiency can be demonstrated and documented.
  - I. All sworn officers of the Department of Motor Vehicles must attend and pass a training qualification course to show proficiency in the operating procedures, deployment and use of any long gun prior to it being carried on duty. The department's firearms training staff must approve this training course.

### III. Authorized Weapons

**Only department issued weapons and approved personally owned weapons may be carried. All weapons shall be inspected and approved as suitable for duty prior to being carried by any officer. A certified instructor or armorer for that weapon will conduct the inspection of less-lethal and lethal weapons.**

### IV. Firearms

- A. The firearms training staff will recommend for the Commissioner's approval types and calibers of firearms and ammunition authorized for use by officers of the Department of Motor Vehicles.
  - 1. All officers will be issued a duty firearm. (See Appendix A for specifications)

### V. Less-Lethal / Lethal Weapons

- A. Less-lethal weapons carried by officers will be issued in accordance with the provisions of this policy and established department training standards as set forth by the Vermont Criminal Justice Training Council.
  - 1. All officers will be issued oleoresin capsicum spray.
  - 2. All officers will be issued an intermediate weapon (See Appendix A for specifications)
- B. Secondary / Personal Weapons
  - 1. Officers may carry a secondary defensive firearm and or a long gun in addition to the standard duty firearm. This firearm must be one of the departmentally approved firearms as listed in Appendix A. The officer must qualify on the department secondary weapon course and or long gun-training course with the firearm prior to carrying it. This firearm must be carried in a secure, concealed manner, or in a way as prescribed in this policy.

2. Officers are permitted to carry a knife or knives on their person.

#### C. Prohibited Weapons

1. Any firearm or ammunition that has not been approved by the firearms training staff shall be prohibited from being worn on duty or carried in a department issued vehicle.
2. Any less-lethal weapon not approved by the use-of-force training staff of the department shall be prohibited from being worn or carried in a department issued vehicle.

#### D. Security of Long Guns

1. The long gun carried by officers of the Department of Motor Vehicles must be secured in one of the following methods while being carried in a department issued vehicle.
  - a. Long guns must be secured in an approved case and / or;
  - b. Long guns must be secured in an approved gun rack, permanently mounted in the department vehicle.

### VI. Handcuffing

- A. All officers upon placing handcuffs on a subject will, as soon as reasonably practicable, check the handcuffs for proper fit and double lock them for safety. All officers shall document, as soon as reasonably practicable, that handcuffs have been checked for proper fit and double locked.
  1. **“Proper Fit” shall constitute the following:** When referring to the fit of handcuffs, an officer will check the cuffs on both wrists of a subject after they have been applied in order to ensure circulation can be maintained in both of the subject’s hands.

### VII. Safety/Restrictions

- A. Restrictions on the use of firearms is as follows:
  1. **Warning** – When officers are about to invoke deadly force they will, when possible and / or practicable, issue a verbal warning to the suspect. In this warning, officers will identify themselves as law enforcement officers and advise the suspect to cease their actions, which caused the invocation of deadly force.
  2. **Shoot to Stop** – Officers will fire their weapons to stop an assailant from completing a potentially deadly act as described in this policy.
  3. **At Or From Moving Vehicles** – Officers will **not** discharge a firearm at or from a moving vehicle except when all other reasonable means have been exhausted.
  4. **Risk To Innocent Bystanders** – When officers are about to discharge their firearm, they will be cognizant of their field of fire and will not create a substantial risk of harm to innocent persons.
  5. **Warning Shots** – Officers will **not** discharge their firearm for the purpose of a warning shot.
  6. **To Destroy Animals** – The killing of an animal is justified for reasons as follows:

- a. Self Defense
  - b. To prevent substantial harm to the officer or others
  - c. When the animal is so sick or badly injured that humanity requires its relief from further suffering.
7. **Exhibition** – Except for general maintenance, storage or authorized training, officers will not draw or exhibit their firearms unless circumstances create a strong suspicion to believe it may be objectively reasonable to lawfully use the firearm in conformance with other sections of this policy.
  8. **Targeting** – Officers will not point or direct their firearm at a person unless circumstances create probable cause to believe it may be objectively reasonable to lawfully use the firearm in conformance with other sections of this policy.
  9. **Loading / Unloading** – Loading and unloading of all firearms carried by officers shall be conducted in a safe environment in accordance with training provided by the firearms training staff.
  10. **Storage** – Officers will secure and store all authorized firearms in such a way as to insure no unauthorized person shall have access to or gain control over them.
  11. **Practice** – Officers may discharge their firearms for the purpose of practice on the shooting range.
  12. **Safety Rules** – Officers will exercise all normal safety precautions and obey all appropriate safety rules while practicing. While on the firing range for department qualification, firearms training staff shall be in command of all actions taking place in regard to training, regardless of rank.
  13. **Domestic Violence Restriction** – Any officer with a pending domestic violence court order shall be put on restricted duty or leave, such that they will not be required to carry a firearm. Department issued firearms shall be turned in pending the adjudication of the situation.

## VIII. Reporting

- A. Officers are required to report any discharge of their firearms.
  1. The officer will report orally to the immediate supervisor, as soon as it is practical, after the incident in which the weapon is fired.
  2. The officer involved will submit a written report as soon as reasonably practicable.
  3. If the officer involved is injured or unable to submit a report, the officer's supervisor will submit a written report prior to going off duty for that shift.
  4. This report will be submitted to the Commissioner and will include the use of force report, as well as a detailed account of the incident, explanation of what force was used, why it was used and the extent of the injury (if any) that were inflicted or sustained. This rule does not apply to rounds fired on the range during training or regular practice unless an injury results from such discharge. This rule also does not apply when a weapon is discharged to destroy a sick or injured animal.

5. In the event that use of force results in serious bodily injury or death, the immediate supervisor will do the following:
  - a. Relieve the officer involved from normal duty.
  - b. Take control of the firearm or weapon used, including ammunition, in a discreet manner and outside of public view so as not to cause embarrassment to the officer.
  - c. If practical, the firearm should be replaced with a firearm of the same make, caliber and model.
  - d. The Commissioner will relieve the officer from normal duties and assign the officer to administrative duties pending results of a formal investigation. The officer may also be required to attend a psychological debriefing prior to reassignment to normal duties.
  - e. The above-mentioned reports will be completed prior to the end of the shift and forwarded up through the chain of command.
- B. Officers are required to submit a use-of-force report as follows:

Whenever...

  1. Their actions result in, or are alleged to have resulted in injury or death of another person.
  2. They apply force to a subject greater than "Passive Control" in the use-of-force continuum.
  3. Use-of-force reports will be submitted to the immediate supervisor prior to the end of the officer's shift in which the force was used. The report will be forwarded up the chain of command.
  4. In the event the use of force appears to be inappropriate or not in compliance with this policy, the incident will be reviewed as outlined by the provisions of the internal investigation policy.
- C. Prior to submitting the Use of Force report, a member has the right to consult legal council if he / she so chooses.

## IX. Records

- A. The firearms and use-of-force training staff are responsible for instituting and maintaining records pertaining to all department weapons, authorized ammunition, secondary weapons, firearms training, all firearm qualifications and other defensive tactics qualifications.
- B. Department use-of-force instructors shall conduct an annual review of all the use-of-force reports submitted. A review of these incidents shall be conducted so that it may reveal a pattern or trend that may indicate additional training or policy modifications need to be made.

## X. Medical Aid

- A. In case of injury to prisoners or bystanders, officers shall be responsible to ensure appropriate medical aid is provided to the injured subject at the earliest possible opportunity.



1. A supervisor shall be notified of all injuries as a direct or indirect result of use-of-force.
2. All injuries incurred by a subject as a result of the use-of-force shall be documented in the arrest report as well as in the use-of-force report.
  - a. Medical assistance will be provided to the degree needed.
  - b. Persons with serious injuries and those that request hospital examination shall be examined and treated by medical staff at the closest medical facility available.

## **APPENDIX - A**

All approved weapons while on duty shall be carried in a manner prescribed by the department. The Department of Motor Vehicles authorizes the following weapon(s) to be carried by sworn personnel:

### **Approved Duty Sidearm (Issued):**

Glock Model 21, .45 caliber semi-automatic pistol

### **Approved Duty Sidearm Ammunition (Issued):**

Any duty ammunition approved by the firearms training staff

### **Approved Long Gun (Issued):**

Remington 870 / 12 gauge Shotgun

### **Approved Long Gun Ammunition (issued):**

Any duty ammunition approved by the firearms training staff

### **Approved Firearms (Secondary):**

Any other handgun approved by the firearms training staff

### **Approved Ammunition (Secondary Weapon):**

Appropriate caliber and weight ammunition approved by the firearms training staff

### **Approved Long Guns (Other):**

Any rifle or 12 gauge shotgun approved by the firearms training staff

### **Approved Long Gun Ammunition (Other):**

Any rifle or 12 gauge shotgun ammunition approved by the firearms training staff

The Department of Motor Vehicles authorizes the following system of less-lethal use of force to be used by sworn personnel:

### **1. Approved Less-Lethal Systems:**

- a. Vermont Criminal Justice Training Council Use-of-Force & Tactics Program, which is a system of less-lethal self defense and control and restraint tactics and techniques for law enforcement officers.

**2. Approved Less-Lethal Weapons:**

- a. Any straight baton approved by the use-of-force training staff
- b. Any side-handle baton approved by the use-of-force training staff
- c. Oleoresin Capsicum (O.C.) Spray – brand subject to variation as approved by use-of-force training staff

**3. Approved Use-of-Force Model / Continuum:**

- a. Vermont Criminal Justice Training Council approved use-of-force model / continuum

**4. Approved Use-of-Force Report:**

- b. Use-of-Force report form approved by department use-of-force training staff

---

**Robert Ide – Commissioner of Motor Vehicles** **Date**

---

**Thomas McCormick – Assistant Attorney General** **Date**

---

**Glen Button – Director of Enforcement & Safety** **Date**

