

**VERMONT
STATE POLICE** | **RULES & REGULATIONS
OPERATIONAL POLICIES &
PROCEDURES**

**SECTION IV
CHAPTER 1 Force
ARTICLE I Use of Deadly Force**

1.0 PURPOSE

1.1 To establish guidelines for the use of deadly force when such force may become necessary in the member's performance of lawful duties.

2.0 POLICY

2.1 It shall be the policy of the Department of Public Safety that deadly force shall be utilized only when other means of successfully resolving an incident cannot be safely undertaken. Use of deadly force shall be in compliance with the procedures as stated in this policy.

3.0 DEFINITIONS

3.1 **Deadly Force** – Force that is likely to cause death or serious physical injury.

3.2 **Necessity** – In evaluating the necessity to use deadly force, two factors are relevant:

- (1) The presence of an imminent danger to the member or others; and
- (2) the absence of safe alternatives to the use of deadly force. Deadly force is never permissible under this policy when the sole purpose is to prevent the escape of a suspect.

3.3 **Imminent Danger** – Imminent does not mean immediate or instantaneous, but that an action is pending. Thus, a subject may pose an imminent danger even if he/she is not at that very moment pointing a weapon at a member. For example, imminent danger may exist if members have probable cause to believe any of the following:

- (1) The subject possesses a weapon, or is attempting to gain access to a weapon, under circumstances indicating an intention to use it against the member or others; or
- (2) the subject is armed and running to gain the tactical advantage of cover; or
- (3) A subject with the capability of inflicting death or serious physical injury – or otherwise incapacitating members without a deadly weapon, is demonstrating an intention to do so; or
- (4) The subject is attempting to escape from the vicinity of a violent confrontation in which he/she inflicted or attempted the infliction of death or serious physical injury.

3.4 A member will apply the principles of ability, opportunity and jeopardy as a guide to establish probable cause for the use of deadly force. The three factors which, when co-existent, create the threat of serious bodily injury or death, are:

(1) 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 exact instant that the member makes the decision to respond with deadly force.

(2) 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.

(3) 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.

4.0 USE OF DEADLY FORCE – GENERAL

4.1 A member may use deadly force to protect himself/herself or other persons from what he/she reasonably believes to be an immediate threat of death or serious bodily injury.

4.2 A member may use deadly force to effect the capture or prevent the escape of a suspect only if it is reasonable to believe that the freedom of the suspect represents an imminent threat of death or serious bodily injury to the member or other persons.

5.0 APPLICATION OF DEADLY FORCE

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

5.2 When deadly force is permissible under this policy, attempts to shoot to cause minor injury are unrealistic and can prove dangerous to members. Members will shoot to stop and incapacitate an assailant from completing a potentially deadly act.

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

6.0 USE OF DEADLY FORCE – FIREARMS

6.1 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.

6.2 **Defense of Life** – Members may use deadly force only when necessary, that is, when the member has probable cause to believe that the subject of such force poses an imminent danger of death or serious physical injury to the member or other persons.

6.3 **Fleeing subject** – Deadly force may be used to prevent the escape of a fleeing subject if there is probable cause to believe:

(1) the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and

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

6.4 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 deadly force.

6.5 Warning Shots – Warning shots are not permitted under this policy.

6.6 Vehicles – Weapons may not be fired solely to disable moving vehicles. Weapons may be fired at the driver or other occupant of a moving motor vehicle only when the member has probable cause to believe that the subject poses an imminent danger of death or serious physical injury to the member or others, and the use of deadly force does not create a danger to the public that outweighs the likely benefits of its use.

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