

# Stowe Police Department

<b>General Order:</b> 2.02 <b>Use of Force/Response To Resistance Reporting</b>	<b>Related General Orders:</b> 2.01 Use of Force/Response to Resistance
This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.	
<b>Applicable Vermont Statutes:</b>	
Issued By: Chief Donald B. Hull, Chief of Police	
Date Implemented: 09/12/2012	Date Revised: 04/14/2015, 11/04/2019

## **I. PURPOSE:**

1. It is the purpose of this policy to provide police employees and supervisors with guidelines for reporting use of force.

## **II. POLICY:**

1. Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, defend against assault, and prohibit flight. This policy mandates that members of the Department accurately, completely and timely report subject control of active resistance and a supervisor conducts a prompt investigation and reports this investigation findings.
2. Each time a weapon is deployed and/or displayed it shall be documented in a use of force report.

## **III. Definitions:**

**Reportable response to active resistance:** Verbal commands, soft-empty hand control, and handcuffing do not require a separate reporting form. The following are reportable force options when used by an officer to compel compliance from a subject by deploying and/or displaying a weapon in conformance with the officer's official duties:

**Chemical Spray:** Where subject exhibits some level of active resistance officers may use chemical spray to temporary incapacitate the subject.

**Conducted Electrical Weapon (CEW):** Where subject exhibits some level of active resistance an officer may use an CEW to temporarily incapacitate the subject.

**Hard Hand Control:** Punches and other physical strikes, including knees, kicks and elbow strikes that have the possibility of creating mental stunning and/or motor dysfunction.

**Impact Weapons:** Batons, ASP/Expandable Baton may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options.

**Impact Weapons:** Batons, ASP/Expandable baton may also be used for non-impact techniques such as come-alongs and restraints as trained by this agency.

**Pointing of Firearms:** Any time an officer points a firearm at an individual, notwithstanding the fact that deadly force is not ultimately deployed. This does not include drawing a firearm and maintaining at the low-ready position.

**Firearms discharges:** Any discharge of a firearm, whether a subject is hit or not, will be reported. Firearm or other weapon use at the range or during qualification or for animal dispatch does not need to be reported

**Canine use:** Use of a police canine will be reported to capture any form of use whether there is contact with a subject or not.

**Deadly Force:** Force that creates a substantial likelihood of causing serious bodily harm or death.

**Special Populations:** Members of special populations include subjects an officer has reason to believe are:

- Cognitively impaired such that they are unable to comply with an officer's instructions.
- Experiencing an emotional crisis that may interfere with the ability to understand the consequences of their actions or follow directions.
- Persons with disabilities whose disability may impact their ability to communicate with an officer, or respond to an officer's directions.
- Under 18 years of age.
- Pregnant.
- Over 65 years of age.
- Physically infirm, subject to or diagnosed with a heart condition, or epilepsy, or a seizure disorder.

#### **IV. PROCEDURES:**

1. Officers who become involved in an incident, on or off duty or in another jurisdiction, that required any reportable force option are required to immediately notify their supervisor. The involved officer will provide a detailed documentation of the use of force utilized in the use of force report.

2. A Response to Resistance Report shall be prepared by the officer(s) whenever an officer of this agency utilizes reportable force, as described in the definition of this policy, in the performance of their duties.

3. The Response to Resistance form will be completed in detail including a narrative account of the following:

- A. The actions of the subject that necessitated that use of force as a response to overcome the active resistance of the subject.
- B. The reasons why force was required and the type of force the officer utilized in overcoming the resistant subject.
- C. Any injuries or complaint of injuries of either the subject or the officer and any medical treatment received.

#### **4. Supervisory Responsibilities:**

- A. Once notified of an incident in which an officer has utilized force, a supervisor will respond to the scene if appropriate and/or needed. The supervisor will investigate the incident, unless it has been determined by the Chief of Police, as outlined in section 7, that the investigation will be conducted by another agency. The supervisor will accomplish the following investigative steps in conducting the investigation:
  - a. Interview the involved subject if they are cooperative, to determine their account of the incident. If they expressly indicate they have a complaint the supervisor shall complete an Administrative Report. Additionally, should the supervisor determine that unreasonable force was utilized the Chief of Police will be notified.
  - b. If a crime scene exists, or police equipment exists, which may contain forensic evidence, the supervisor shall ensure that the scene and evidence is processed, photographed and preserved.

- c. Take photographs of the involved officer(s) and subject(s) depicting any potential injuries or documenting the lack of any injuries to the parties involved.
- d. Interview, preferably recorded, all witnesses to the incident and document their description of the event.
- e. Ensure that a qualified health care provider handles any injuries or other medical condition being experienced by the involved person.
- f. The supervisor shall review any video recording of the incident, if available, prior to the approval of the officer's reports.
- g. The supervisor investigating the use of reportable force shall be responsible for the review and approval of the officer's reports of the incident.
- h. The supervisor will forward the completed Response to Resistance Report to the Chief of Police within a reasonable period. The supervisor may also recommend a further review of the use of force.

5. Whenever an officer is involved in an accidental discharge of a firearm, CEW, less-lethal weapon or special weapon, shall as soon as possible, notify a supervisor and complete a departmental memorandum (report) of the incident within 24 hours of the accidental discharge. The supervisor will conduct an investigation of the accidental discharge, will notify the Chief of Police and will forward a report to the Chief of Police within a reasonable period. The supervisor may also make any recommendations of training or discipline if appropriate.

6. Exceptions to the Response to Resistance reporting requirements:

- A. Reasonable holding, restraining or positioning of an individual necessary to apply handcuffs or other restraints; or
- B. Necessary physical touching or guiding of an individual intended to effect compliance with a lawful command, which is applied in such a manner as to be reasonable and which is not intended to cause physical injury.
- C. Training, recreational purposes or dispatch of an animal.

7. Notification of the Chief of Police:
  - A. The Chief of Police will be notified anytime there is a response to resistance by an officer that results in or is alleged to have resulted in the injury or death of another person or that officer.
  - B. The Chief of Police will be notified anytime there is a discharge of any firearm or any other weapon.
  - C. Upon notification, the Chief of Police may at his discretion assign the investigation to another police agency. The Chief of Police may also review the incident with the States Attorney and/or the Attorney General's office. The facts and circumstances involved in the incident will determine the appropriate course of action.
8. All use of force reports and departmental memorandum required under this policy shall be reviewed by the officer's supervisor and then submitted to the Chief of Police.
9. Use of force reports and departmental memorandum required under this policy will not be attached to any incident in CAD (Valcour) and will not be part of any arrest or incident report.
10. The department shall conduct a use of force review in the following situations:
  - A. The department receives a complaint of excessive use of force.
  - B. The supervisor recommends conducting a use of force review.
  - C. The encounter resulted in death or serious bodily injury.
  - D. The individual exposed is a member of a special population.
  - E. An individual was exposed to three or more CEW cycles or a cycle that lasted longer than 15 seconds.

**V. DISCIPLINE:**

1. Any violation of this policy may be grounds for disciplinary action consistent with any applicable collective bargaining agreement, statute, Department policy or Town policy.