

<p style="text-align: center;"><b>STATE OF VERMONT</b> <b>AGENCY OF HUMAN SERVICES</b> <b>DEPARTMENT OF CORRECTIONS</b></p>	<b>Use of Force</b>		<b>Page 1 of 4</b>						
<p><b>CHAPTER:</b> <i>SECURITY AND SUPERVISION</i></p>	<b>#413</b>	<p><b>Supersedes:</b> #413, <i>Use of Force</i>, dated 7/20/2016; #413.10, <i>Use of the Restraint Chair</i>, dated 4/24/06; #413.11, <i>Responses to Self-Harm</i>, dated 8/21/06</p>							
<p><b>Local Procedure(s) Required:</b> No  <b>Applicability:</b> All staff (including contractors and volunteers)  <b>Security Level:</b> “B” – Anyone may have access to this document.</p>									
<p><b>Approved:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center; border-bottom: 1px solid black;">SIGNED</td> <td style="text-align: center; border-bottom: 1px solid black;"><u>2/11/2022</u></td> <td style="text-align: center; border-bottom: 1px solid black;"><u>2/25/2022</u></td> </tr> <tr> <td style="text-align: center;"><b>Nicholas J. Deml, Commissioner</b></td> <td style="text-align: center;"><b>Date Signed</b></td> <td style="text-align: center;"><b>Date Effective</b></td> </tr> </table>				SIGNED	<u>2/11/2022</u>	<u>2/25/2022</u>	<b>Nicholas J. Deml, Commissioner</b>	<b>Date Signed</b>	<b>Date Effective</b>
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**PURPOSE**

The purpose of this directive is to establish the Vermont Department of Corrections (“DOC” or “Department”) policy on the use of force by its staff.

**AUTHORITY**

28 V.S.A § 101(1), § 102(c)(1), (5), (6), § 601(2), (3), (4), § 801a, and § 851.

**POLICY**

The DOC is committed to balancing its duty of managing incarcerated and supervised individuals with the safety of those individuals, its staff, and the public. The DOC recognizes that *all* human beings deserve safety, dignity, and respect.

The DOC’s policy is to promote safety and security for all individuals in all of its interactions with them. This necessarily includes both the physical and emotional safety of staff, individuals under the Department’s custody or supervision, and all others present. The DOC recognizes that a majority of the population has experienced a traumatic event in their lifetimes and that the individuals under the custody or supervision of the Department represent a population that is at higher risk for increased exposure to trauma. The DOC also recognizes that traumatic experiences can result in lasting changes to an individual’s body, including their brain. These changes can limit an individual’s ability to think clearly, communicate effectively, and regulate their behavior. These changes may result in stress responses that are mistakenly interpreted as willful non-compliance or aggression. With this understanding, the DOC assumes the responsibility of ensuring that DOC staff can recognize stress responses and are directed to

interact with individuals in ways that minimize the likelihood of retraumatizing or triggering them.

The DOC applies use of force with sensitivity to the trauma-responsive needs of all stakeholders, primarily of those under its custody or supervision, in a manner consistent with the safety of staff, supervised/incarcerated individuals, other constituents, and the public. The Department recognizes that any use of force may be triggering or traumatic to an individual and is also committed to carrying out its duties with the least amount of force reasonably necessary to meet its obligations. The Department vests in its staff the authority and trust to apply force where doing so is reasonably believed to necessarily prevent escape or harm to individuals under the Department's custody or supervision, DOC staff, and the general public. The Department is also committed to transparency and consistency while meeting its care and safety goals.

## **GENERAL GUIDELINES**

### **A. Scope**

This policy applies to all DOC staff for all situations in which DOC staff interact with anyone who is under the Department's custody or supervision or anyone who engages in behavior that interferes with the Department's execution of its legal duties.

### **B. Use of Force Purpose (Conflict Resolution)**

The DOC is committed to resolving conflicts at the lowest level. It is committed to doing so without jeopardizing the safety of staff, the public, supervised/incarcerated individuals or the Department's duty to maintain order among the individuals it supervises or incarcerates. Staff shall only use physical force when nonphysical alternatives are insufficient to regain control, safety, or order or when conditions interfere with the application of nonphysical alternatives to resolve conflict.

The Department shall provide staff with initial, and continuous, training in the following techniques and skills, where appropriate: Advanced Communication Techniques (ACT); Non-Lethal Use of Force (NLUOF), including oleoresin capsicum (OC); arrest certification training; and restraint chair.

### **C. Use of Force Conditions**

1. The decision to use force is situational, but staff shall make every reasonable effort to adhere to the guidelines established in this policy and the related Standard Operating Procedures (SOP).
2. Staff shall only apply or use force to the degree necessary to gain control of a supervised/incarcerated individual and to mitigate injury to the supervised/incarcerated individual or others.
3. Staff shall resolve conflicts at the lowest level of intervention without jeopardizing the safety of staff, the public, supervised/incarcerated individuals, or the Department's duty to maintain order among the individuals it supervises or incarcerates. Staff shall only use physical force when nonphysical alternatives are insufficient to regain safety, control, or

order or when conditions obstruct the application of nonphysical alternatives to resolve conflict.

4. When to Apply or Use Force

Staff may use force when it is necessary to:

- a. defend themselves or another against a physical assault;
- b. prevent the commission of a felony, including escape;
- c. prevent an act that could result in the death or bodily injury to themselves or another person;
- d. apprehend an absconded or escaped supervised/incarcerated individual;
- e. prevent or control a riot or disturbance;
- f. prevent serious damage to property;
- g. preserve the overall order and security of a facility;
- h. prevent a supervised/incarcerated individual from engaging in dangerous behavior;
- i. move a supervised/incarcerated individual who has refused a proper order by a staff person;
- j. conduct a search of an incarcerated individual who has refused a proper order by a staff person to submit to a search.

**D. Use of Force Prohibitions**

1. Staff shall not use force prior to employing non-physical alternatives, except in an emergent situation.
2. Staff shall not condone, use, or permit the use of excessive force.
3. Staff shall not condone, use, or permit the use of force as punishment or discipline.
4. Staff observing excessive force shall be viewed as having an obligation to intervene.
5. Staff shall report any excessive force they observe.
6. Staff shall not use force when the use of that force would endanger a third party, except when failure to intervene creates a greater risk to all.
7. Staff shall not confine any individual in an unnatural or unsafe manner, including placing an individual on their stomach while they are being transported; securing their feet to handcuffs behind their back; or applying any restraints to, or around, their neck.

**E. Levels of Force**

Staff shall take into account each situation's risk factors and this policy's guidelines to determine the appropriate level of force and equipment. Levels of force are defined as follows:

1. Less-Than-Lethal Force. A level of force that would be reasonably expected to not result in serious bodily injury or death.
  - a. Less-Than-Lethal Force may be employed through the use of a device or the application of a staff member's bodily force to gain control of an individual or to defend against an assault. Force applied beyond this standard could be considered excessive.
2. Lethal Force. A level of force that creates a substantial likelihood of causing serious bodily injury or death. All force has the potential to be lethal depending on how it is

employed.

- a. Correctional staff may only use lethal (i.e., deadly) force in the just and necessary defense of their own lives or to interfere with another person's attempt to commit murder. Force applied beyond this standard could be considered excessive.

**F. Use of Force Incident Documentation and Review**

1. Staff involved in, or witnessing, use-of-force incidents shall immediately notify their direct supervisors of these incidents as soon as it is reasonably safe to do so.
2. Involved staff shall document the incident in OMS according to the Department's incident reporting policy.
3. Staff supervisors shall report use-of-force incidents to superintendents (Facility) or district managers (Field) immediately after the use-of-force situation is stabilized.
  - a. A use-of-force situation is stabilized when the following occur:
    - i. the involved individuals are identified;
    - ii. the immediate area where the incident occurred is secured;
    - iii. there is no imminent danger of loss of life or bodily injury; and
    - iv. relevant evidence of the incident is secured.
4. The DOC is committed to a multi-layered review of all use-of-force incidents. The Department shall use reviews to support improvements in process, performance, and accountability.