

20 V.S.A. § 2368

Standards for law enforcement use of force

Effective October 1, 2021

(a) Definitions. As used in this section:

(1) "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.

(2) "Deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury.

(3) "Force" means the physical coercion employed by a law enforcement officer to compel a person's compliance with the officer's instructions.

(4) "Imminent threat of death or serious bodily injury" means when, 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 the harm, but is one that, from appearances, must be immediately addressed and confronted.

(5) "Law enforcement officer" has the same meaning as in 20 V.S.A. § 2351a.

(6) "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.

(b) Use of force.

(1) 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.

(2) 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.

(3) 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 for the sanctity of every human life. Every person has a right to be free from excessive use of force by officers acting under authority of the State.

(4) 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.

(5) 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.

(6) A law enforcement officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of the resistance or threatened resistance of the person being arrested. A law enforcement officer shall not be deemed an aggressor or lose the right to self-defense by the use of proportional force if necessary in compliance with subdivision (2) of this subsection to effect the arrest or to prevent escape or to overcome resistance. For the purposes of this subdivision, "retreat" does not mean tactical repositioning or other de-escalation tactics.

(7) A law enforcement officer has a duty to intervene when the officer observes another officer using a chokehold on a person.

(c) Use of deadly force.

(1) A law enforcement 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:

(A) defend against an imminent threat of death or serious bodily injury to the officer or to another person; or

(B) 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.

(2) 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.

(3) 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.

(4) A law enforcement officer shall not use deadly force against a person based on the danger that person poses to himself or herself if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the law enforcement officer or to another person.

(5) When feasible, a law enforcement 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.

(6) A law enforcement officer shall not use a chokehold on a person unless deadly force is justified pursuant to subdivisions (1)--(4) of this subsection.

13 V.S.A. § 1032

Law enforcement use of chokeholds

Effective October 1, 2021

(a) As used in this section:

(1) "Law enforcement officer" has the same meaning as in 20 V.S.A. § 2351a.

(2) "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.

(3) "Serious bodily injury" has the same meaning as in section 1021 of this title.

(b) A law enforcement officer acting in the officer's capacity as law enforcement who employs a chokehold on a person in violation of 20 V.S.A. § 2368(c)(6) that causes serious bodily injury to or death of the person shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

13 V.S.A. § 2305

Justifiable homicide

Effective October 1, 2021

If a person kills or wounds another under any of the circumstances enumerated below, he or she shall be guiltless:

(1) in the just and necessary defense of the person's own life or the life of the person's spouse, parent, child, sibling, guardian, or ward; or

(2) if the person reasonably believed that he or she was in imminent peril and that it was necessary to repel that peril with deadly force, in the forceful or violent suppression of a person attempting to commit murder, sexual assault, aggravated sexual assault, burglary, or robbery; or

(3) in the case of a law enforcement officer as defined in 20 V.S.A. § 2351(a) using force in compliance with 20 V.S.A. § 2368(b)(1)--(2), and (5) or deadly force in compliance with 20 V.S.A. § 2368(c)(1)--(4) and (6).

20 V.S.A. § 2358

Minimum training standards; definitions

Effective October 1, 2021

(previous law referenced “prohibited restraint” instead of “chokehold”)

(g) The Council shall not offer or approve any training on the use of a chokehold as defined in section 2401 of this chapter, except for training designed to identify and prevent the use of chokeholds.

20 V.S.A. § 2401

Definitions

Effective October 1, 2021

(previous law referenced “prohibited restraint” instead of “chokehold”)

As used in this subchapter:

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency's policy or if not defined by the agency's policy, then as defined by Council policy, and shall include:

(F) placing a person in a chokehold;

(G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a chokehold or using excessive force.

(7) “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.