



HRCJTA TB 2021-6

DATE: June 10, 2021
TO: Hampton Roads Criminal Justice Training Academy Member Agencies
FROM: Scott Barlow, Executive Director
SUBJECT: HRCJTA Training Bulletin 2021-6 (Deadly Force 19.2-83.5)

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The HRCJTA is a regional police academy, servicing many different jurisdictions. Each jurisdiction must provide training, and procedures on how the individual jurisdiction expects their officers/deputies to procedurally handle these **significant changes** to Virginia code.

This Training Bulletin only highlights certain new statutes of note. Please see CASC's "2020 Legislative Update - Special Session Fall 2020 Master List" outline for a more complete listing of bills, along with hyperlinks to the text of the legislation. For the most complete information, please read the full text of the new legislation.

Use of Deadly Force 19.2-83.5

A law-enforcement officer shall not use deadly force against a person unless:

- The law-enforcement officer reasonably believes that deadly force is immediately necessary to protect the law-enforcement officer or another person, other than the subject of the use of deadly force, from the threat of serious bodily injury or death;
- If feasible, the law-enforcement officer has provided a warning to the subject of the deadly force that he will use deadly force;
- The law-enforcement officer's actions are reasonable, given the totality of the circumstances; and

- All other options have been exhausted or do not reasonably lend themselves to the circumstances.

In determining whether deadly force was proper, the following factors shall be considered:

- The reasonableness of the law-enforcement officer's belief and actions from the perspective of a reasonable law-enforcement officer on the scene at the time of the incident; and the totality of the circumstances.
- The amount of time available to the law-enforcement officer to make a decision;
- Whether the subject of the use of deadly force (a) possessed or appeared to possess a deadly weapon and (b) refused to comply with the law-enforcement officer's lawful order to surrender an object believed to be a deadly weapon prior to the law-enforcement officer using deadly force;
- Whether the law-enforcement officer engaged in de-escalation measures prior to the use of deadly force, including taking cover, waiting for backup, trying to calm the subject prior to the use of force, or using non-deadly force prior to the use of deadly force;
- Whether any conduct by the law-enforcement officer prior to the use of deadly force intentionally increased the risk of a confrontation resulting in deadly force being used; and the seriousness of the suspected crime.

These changes begin July 1, 2021 and represent some of the most significant changes to how policing is done in the Commonwealth of Virginia. It is critical that law enforcement officers seek guidance from their respective Commonwealth Attorney on the correct interpretation of these new laws.