

PURPOSE

The primary purpose of this directive is to ensure officers respect the sanctity of life when making decisions regarding use of force. This directive is designed both to conform with constitutional and state statutory principles, but also aspires to go beyond them. *Graham v. Connor, 490 U.S. 386 (1989)* - Under this standard, an officer may only use force that a reasonable officer would use when facing similar circumstances.

This basis acknowledges the difficult decisions peace officers must make and the complexity of each situation. This policy strives to ensure that de-escalation techniques are used whenever feasible, that force is used only when necessary, and that the amount of force used is proportionate to the situation that an officer encounters.

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use the guidelines in this policy to make such decisions in a professional, impartial and reasonable manner. It should be every officer's goal to resolve all situations without using force. Officers shall apply nonviolent means, when possible, before resorting to the use of physical force. Specific considerations should be given to: **Tactical Communication, Tactical Positioning, and Time as a Tactic (TTT)**.

Officers will provide clear instructions and warnings whenever feasible before using any force. Seek to communicate in non-verbal ways when a verbal warning would be inadequate (does not speak English, has a disability and cannot understand warnings). Indicate the consequences of refusing to comply with a mandatory order, including the specific type of force that may be used, and provide a reasonable amount of time to comply.

Officers must have an understanding of, and true appreciation for, their authority and limitations of such authority. This is especially true with respect to dealing with non-compliant and/or resistive subjects while engaged in the performance of law enforcement duties. As a situation changes, officers must reevaluate the circumstances and continue to respond proportionately.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use objectively reasonable force and to protect the public safety and welfare requires monitoring, evaluation and a careful balancing of all interests.

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement profession. Peace officers are involved in numerous and varied interactions and, when warranted, may use objectively reasonable force in carrying out their duties.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

DEFINITIONS

For purposes of this policy, the following definitions shall apply:

Active Assailant: A person who is using or imminently threatening the use of force against another person, with or without a weapon, in an aggressive manner that poses an imminent danger to an officer or another person.

Active Resistance: The subject is intentionally and unlawfully opposing the lawful order of a peace officer in a physical manner; Examples may include bracing, tensed muscles, interlocked arms/legs, pushing, kicking, breaching police lines, pushing over police barricades, running away or other actions to evade or escape etc.

Assaultive Resistance: A form of Active Resistance where the subject uses aggressive or combative behavior to attempt, threaten, or commit a violent injury on an officer or other person.

Chemical Agents: Devices utilized by law enforcement agencies, include, oleoresin capsicum (OC).

Chokehold: Applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

Compliant: A person contacted by an officer who acknowledges direction or lawful orders given and offers no non-verbal/verbal, passive/active, or assaultive resistance.

Conducted Energy Device (CED): A CED is a device designed to use electrical energy to induce pain in drive stun mode or to induce a neuro-motor dysfunction to immobilize or incapacitate while person in probe mode thus enabling officers to gain control of a subject.

Control Devices: The application of devices intended to assist peace officers in gaining control of subjects who refuse to submit to lawful authority. This may include batons, Conducted Energy Device (CED), oleoresin capsicum (OC) spray, restraints, projectile devices, and kinetic energy devices (KE).

Control Strikes: Impact-oriented strikes with personal body weapons such as knees, elbows, hands or fists, and feet.

Deadly force: Force reasonably anticipated and intended to create a substantial risk of causing death or serious bodily injury.

Feasible: Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Force: The application of physical force, chemical agents or weapons to another person. It is not a use of force when a subject allows himself or herself to be searched, escorted, handcuffed or restrained.

Imminent: Ready to take place; impending. Imminent does not mean immediate or instantaneous.

Non-Verbal and Verbal Non-Compliance: The subject expresses intentions not to comply through verbal and/or non-verbal means. Statements by a subject ranging from pleading to physical threats may be encountered. This also includes physical gestures, stances, and observable mannerisms.

Pain Compliance: Stimulation of nerves or the manipulation of joints to elicit a sense of unease or distress in a subject causing that subject to comply with lawful directives.

Non-Compliant: The subject refuses to comply with officer's lawful commands or cooperate with an officer's directions. Includes passive resistance where subject uses dead weight to prevent being taken into custody. Examples include subjects who remain in a sitting, standing, or limp or prone positions without holding on to fixed objects or other persons in an attempt to delay or resist arrest.

Police Presence: The displays of visual images of authority as well as a professional demeanor and manner are typically present at every encounter between officers and subjects. This includes symbols of police authority including the badge, uniform, and/or marked police vehicle.

Projectile Devices: Devices designed to expel or propel impact projectiles or specialty impact device.

Restraints: Restraints include handcuffs, belly chains, shackles, flex cuffs, wrap, or other devices designed to restrain the movement of a person.

Should: Indicates a generally required or expected action, absent a rational basis for failing to conform.

Tactical Positioning: Making advantageous use of positioning, distance, and cover to isolate and contain a person and avoid the need to resort to force.

Time as a Tactic: Establishing a zone of safety around a person that creates an opportunity for an assessment and action, when feasible, thereby decreasing the need to resort to force.

Totality of the Circumstances: All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

Verbal and Non-Verbal (Tactical) Communications: Verbal and non-verbal communications are often a critical component of any potential use of force situation. This type of de-escalation technique includes any verbal and non-verbal requests, directions, or commands from an officer to a subject.

USE OF FORCE

Officers shall apply nonviolent means, when possible, before resorting to the use of physical force. Officers may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the officer or another person.

Officers shall use only that amount of force consistent with minimization of injury to others, and that is objectively reasonable under the totality of the circumstances known to the officer at the time the force is used. Force may appear necessary at the time the force is used given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of an objectively reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided or authorized by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose under the totality of the circumstances.

Persons under an officer's control should be positioned in a way so that their breathing is not obstructed. This means that officers should not sit, kneel, or stand on a person's neck, chest, or back, and when feasible, should not force the person to lie on his or her stomach for an extended period of time.

Duty to Intervene. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances or inconsistent with this policy or law, shall, when in a position to do so, intervene to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by this policy or law should promptly report these observations to a supervisor. At a minimum, the report must include the date, time, and place of the occurrence; the identity, if known, and description of the participants; and a description of the intervention actions taken. The report shall be made in writing within ten days of the occurrence and shall be appended to all other reports of the incident.

Perspective. When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that, other law enforcement officers may have additional information regarding the threat posed by a subject.

De-escalation. When reasonable and feasible, officers should consider attempts to de-escalate situations in their interactions with subjects, through the use advisements, warnings, verbal persuasion, additional resources, and other tactics or alternatives that potentially reduce the level of reasonable force required.

Verbal and Visual Warnings. A verbal or visual warning of the intended use of force should precede its application along with a reasonable opportunity to comply. Warnings shall be given unless it would otherwise endanger the safety of officers, the safety of other involved people or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to comply with an officer's direction.
- (b) Provide other officers or bystanders with a warning that a control device or weapon may be deployed.

Factors Used to Determine the Reasonableness of Force. When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others;
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time including whether the individual was actively resisting;
- (c) The time available to the officer to make a decision;
- (d) Seriousness of the suspected offense or reason for contact with the individual;
- (e) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer;
- (f) Proximity to weapons or dangerous improvised devices;
- (g) Officer/subject factors including:
 - (1) Age, size, relative strength;
 - (2) Skill level;
 - (3) Injuries sustained or level of exhaustion or fatigue;

- (4) The number of officers available vs. subjects;
 - (5) Prior contacts with the subject or awareness of any propensity for violence;
 - (6) Effects of drugs or alcohol;
 - (7) Subject's mental state or capacity;
 - (8) Environmental factors such as footing, lighting, sound and crowd conditions.
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- (h) The degree to which the subject has been effectively restrained and the subject's ability to resist despite being restrained;
 - (i) The availability of other options and their possible effectiveness;
 - (j) Training and experience of the officer;
 - (k) Potential for injury to officers, suspects and others;
 - (l) The risk and reasonably foreseeable consequences of escape;
 - (m) The apparent need for immediate control of the subject or a prompt resolution of the situation;
 - (n) Individuals who are known to be pregnant;
 - (o) Elderly individuals or obvious juveniles;
 - (p) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray;
 - (q) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles);
 - (r) Other exigent circumstances.

Officers may not use or threaten to use force for the following reasons:

- a. To resolve a situation more quickly, unless the extended delay would risk the safety of the person involved, officers, or others, or would significantly interfere with other law enforcement objectives;
- b. To punish a person or to retaliate against them for past conduct or to impose punishment;
- c. To prevent a person from fleeing or resisting in the future;

- d. Based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.

There is a distinction between a verbal warning prior to the use of force versus the threatened use of force. A warning is to be used when the officer can reasonably foresee that the use of force is necessary to gain compliance and that use of force is authorized under this policy. The threatened use of force is applicable in situations where the officer is using the use of force as a coercion and or when the application of force would not be justified under this policy.

Pain Compliance Techniques. Pain compliance techniques may be very effective in controlling a non-compliant or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received approved training and only when the use of such a technique appears objectively reasonable to further a legitimate law enforcement purpose. The application of any pain compliance technique should be discontinued once the officer determines that compliance has been achieved.

Intermediate Force Application. Intermediate force options are neither likely nor intended to cause death, but have a significant risk of bodily injury or harm. In situations where a person is actively resisting and poses a threat to the safety of officers or the public. Officers may use intermediate force where such force would be objectively reasonable under the totality of the circumstances. Intermediate force is typically appropriate to compel compliance by a subject displaying assaultive resistance. This force option includes devices intended to assist peace officers in gaining control of subjects who refuse to submit to lawful authority. This may include for example: batons, conducted energy devices (CED), oleoresin capsicum (OC) spray, restraints, and kinetic energy projectiles (KE).

Deadly Force Applications. A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury, or would create a risk of death or injury to other persons.

The use of deadly force may be justified if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or she and another person is in imminent danger of being killed or of receiving serious bodily injury.

Deadly force to make an arrest is justified only when all other means of apprehension are unreasonable under the circumstances and:

- (a) The suspect poses an immediate threat to the peace officer or another person;
- (b) The use of deadly force presents no substantial risk of injury to other persons;

- (c) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force.

Officers may use deadly force to stop a fleeing subject when a peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that the person poses an immediate threat of serious bodily injury or death to the officer or another person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force.

Specific instances when the use of deadly force is prohibited. In general, officers may not discharge their weapons as a signal for help or as a warning shot, nor may they use deadly force in the following situations:

- a. Solely to prevent property damage or property loss;
- b. Solely to prevent the destruction of evidence (for example, under no circumstances shall an officer use a chokehold, or any lesser contact with the neck area, in order to prevent the destruction of evidence by ingestion).
- c. Solely to disable moving vehicles; or
- d. Against a person who poses a threat only to themselves (and not to others).
- e. To apprehend a person who is suspected of only a minor or nonviolent offense.

Chokehold/Carotid Control Hold. Colorado Senate Bill 20-217 prohibits the use of any chokeholds, lateral vascular neck restraints (LVNR) or carotid control holds. The use of any chokehold is limited to those circumstances where deadly force is authorized.

Moving Vehicles. Shots fired at or from a moving vehicle involve additional considerations and are rarely effective. When feasible, officers should take reasonable steps to move out of the path of a moving vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

PROCEDURES FOLLOWING THE USE OF FORCE

Medical Attention. Prior to booking or release, medical attention shall be obtained for any person to whom force has been applied who:

- (a) Exhibits signs of physical distress;
- (b) Has sustained visible injury;
- (c) Expresses a complaint of injury or continuing pain; or
- (d) Was rendered unconscious.

Medical Emergencies. Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called “excited delirium”), or who experience a protracted physical encounter with multiple officers to be brought under control, may necessitate special medical consideration.

- (a) Calls involving these persons may be considered medical emergencies. Officers who reasonably suspect a medical emergency should ensure medical assistance is rendered to any injured or affected persons as soon as practicable.

Providers of Medical Attention. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical attention may consist of examination by fire or EMS personnel, EMT's, paramedics, hospital staff or medical staff at the jail.

Refusal of Medical Attention. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

Notification. When an officer reasonably believes that there is a medical risk to a person following any use of force, the primary handling officer shall ensure that any person providing medical care or receiving custody of such person is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

REPORTING THE USE OF FORCE

Supervisory Notification. Command (Chief of Police or Commander) shall be notified as soon as practicable following the application of force in any of the following circumstances:

- (a) Use of deadly force;
- (b) Use of any control device;
- (c) Use of force which causes any visible injury or apparent physical injury;
- (d) Any person alleges excessive use of force;
- (e) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort;
- (f) The individual subjected to the force complained of injury or continuing pain;
- (g) The individual indicates intent to pursue litigation;
- (h) Any application of a restraint device other than handcuffs, shackles or belly chains;
- (i) The individual subjected to the force was rendered unconscious;
- (j) An individual was struck or kicked;
- (k) Any person alleges any of the above has occurred;
- (l) Property is damaged as a result of the force used;
- (m) A Non-Injury or Property Damage Intentional Discharge of a Firearm Incident (which includes an intentional discharge at anything other than a person, such as a dog or wildlife);
- (n) Unintentional Discharge of a firearm or control device;

Documentation. Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

COMMAND LEVEL REVIEW AND ANALYSIS

The Chief of Police or designee upon notification shall assume the responsibility of ensuring any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable. The Chief of Police or designee shall assign a member of his or her command staff to review each use of force by any personnel within his or her command to ensure compliance with this policy and to address any training issues. The assigned command staff member is responsible to review the Use of Force Report package (e.g. crime and arrest reports, photographs, and/or other pertinent information). After final review, the Chief of Police will ensure that custody and storage of the Use of Force Report package complies with legal statutes, policies and appropriate reporting purposes.

Annually (January – December), the Chief of Police will prepare an analysis report on all use of force incidents. The report shall **not** contain the names of the officers, suspects, or case numbers, and should include:

- (a) The identification of any trends in the use of force.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

REPORTING TO THE COLORADO ATTORNEY GENERAL

The Chief of Police or designee shall ensure that data required by the Colorado Attorney General regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded in a timely manner.

TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding. At a minimum, each officer will receive training on this policy once a calendar year. Included in this training, officers will also receive training that considers guidelines regarding vulnerable populations, including, but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.