

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. 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 these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious 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 techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Reasonable belief** - The officer had an honest and good faith belief, based upon facts and circumstances within such officer's knowledge, which would persuade a reasonable person to that belief, that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury and that it was necessary to use deadly physical force in order to prevent such serious bodily injury or loss of life.

**Serious bodily injury** - An injury that presents a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

**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.

### 300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

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Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

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

#### **300.2.1 DUTY TO INTERCEDE AND REPORT**

Any member present and observing another member or public safety associate using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

Any member who observes another member or public safety associate use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor, as soon as feasible.

#### **300.2.2 ADDITIONAL INTERVENTION AND REPORTING**

An officer shall also intervene to prevent or stop another peace officer from using physical force that exceeds the degree of force permitted by CRS § 18-1-707.

An officer who witnesses another peace officer using force in excess of that permitted by CRS § 18-1-707 shall report such use of force in writing to the officer's immediate supervisor. Such report shall be within 10 days of the occurrence and include the date, time, and place of the occurrence, the identities, if known, and description of the participants, and a description of the events and the force used (CRS § 18-8-802).

#### **300.2.3 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 the subject.

### **300.3 USE OF FORCE**

Personnel shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the member at the time of the event to accomplish a legitimate law enforcement purpose, and shall apply de-escalation techniques when possible. Additionally, when it is objectively reasonable that a subject is fully in law enforcement's control, then the force must terminate.

The reasonableness of force will be judged from the perspective of a 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.

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Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

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 by this 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.

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.

Federal Requirements. Officers may not use excessive force against any non-violent individuals engaged in non-violent civil rights demonstrations. Officers will enforce applicable state and local laws against physically barring entrances to or exits from a facility or location which is the subject of such a non-violent civil rights demonstration.

#### 300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

#### 300.3.2 USE OF FORCE TO EFFECT AN ARREST

An officer should apply nonviolent means, when possible, and may use physical force only if nonviolent means would be ineffective to effect an arrest, prevent an escape, or prevent an imminent threat of serious bodily injury or death to officers or others (CRS § 18-1-707).

Officers should only use that degree of force consistent with the minimization of injury to others (CRS § 18-1-707).

Officers shall not apply force in excess of the force permitted by CRS § 18-1-707 to a person who has been rendered incapable of resisting arrest (CRS § 18-8-803).

#### 300.3.3 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.

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- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

#### 300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

Refer to the Control Devices and Techniques Policy for further direction on pain compliance techniques.

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#### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Pueblo Police Department for this specific purpose.

#### 300.3.6 PROHIBITION ON CHOKEHOLDS

An officer is prohibited from using a chokehold upon another person. A chokehold is defined as a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible. It also includes pressure to stop the flow of blood to the brain via the carotid arteries (CRS § 18-1-707).

#### 300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts or that doing so would unduly place officers or other persons at risk of injury or death (CRS § 18-1-707).

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) Deadly force may only be used when an officer reasonably believes the action is in defense of any human life in imminent danger of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

#### 300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

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When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the 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 reasonable 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.

#### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law.

##### **300.5.1 NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER ® device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was pushed or shoved.
- (i) An individual was struck or kicked.
- (j) An individual was taken to the ground.
- (k) An individual alleges unreasonable force was used or that any of the above has occurred.

#### **300.6 RENDERING MEDICAL AID**

Appropriate medical aid shall be rendered as quickly as reasonably possible following any law enforcement action that results in a person sustaining an injury, exhibiting signs of physical distress, expressing a complaint of injury or continuing pain, or being rendered unconscious. Appropriate medical aid may include but is not limited to increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid, or evaluation by an emergency medical services provider or medical personnel at a hospital or jail. Any individual

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exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Whenever practicable, members should take appropriate steps to provide initial medical aid in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so. Prior to initiating medical aid, the member should contact the Communications Center and request response by emergency medical services (EMS) as the member deems appropriate. Refer to the Control Devices and Techniques Policy for treatment guidelines following the exposure of a person to oleoresin capsicum spray, the Conducted Energy Device Policy for treatment guidelines following application of a TASER device on a person, and the Medical Aid and Response Policy for guidelines on the use of automated external defibrillators.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

A member shall activate the emergency medical system when obvious severe injuries have occurred, medical distress is apparent, or the individual is unconscious. The procedure for activating EMS is to contact the Communications Center and request such activation. When requesting EMS, the member should provide the Communications Center with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  1. Signs and symptoms as observed by the member.
  2. Changes in apparent condition.
  3. Number of patients, sex and age, if known.
  4. Whether the person is conscious, breathing and alert, or is believed to have consumed drugs or alcohol.
  5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel regarding whether to transport the person for treatment.

Refer to the Medical Aid and Response Policy for additional guidelines.

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#### 300.6.1 ADDITIONAL MEDICAL CONSIDERATIONS

Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

If an 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.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force 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).

Individuals 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 require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

#### 300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.

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1. These photographs should be retained until all potential for civil litigation has expired.
  - (e) Identify and interview any witnesses not already included in related reports.
  - (f) Review all body-worn camera recordings that captured the incident.
  - (g) Review and approve all related reports.
  - (h) Determine if there is any indication that the individual may pursue civil litigation.
    1. If there is an indication of potential civil litigation, the supervisor should document such in the Response to Aggression/Resistance Report.
  - (i) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.
  - (j) Complete the required Response to Aggression/Resistance Report.
  - (k) Submit entire package to his/her immediate supervisor for review within fourteen calendar days from the date of the incident. In the event that special circumstances cause a delay in the completion and submission of the package, additional time to complete and submit the package may be authorized by his/her immediate supervisor with advanced notice.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### **300.8 ADMINISTRATIVE REVIEW**

Every use of force incident shall be administratively reviewed. The administrative review should indicate whether policy, training, equipment or disciplinary issues should be addressed. Administrative reviews are originated by the immediate supervisor of the department member who uses force, as set forth in the section of this policy governing supervisor responsibilities. The immediate supervisor shall review the incident and document such in the Response to Aggression/Resistance Report. The Response to Aggression/Resistance Report, along with any other related reports, photographs and documentation, shall then be forwarded to and reviewed by each level of supervision in the chain of command, up to the Chief of Police. Each recipient in the review process may either concur with the findings or determine that further investigation is required. The Chief of Police will make the final determination as to whether the individual use of force incident is within department policy. Completed administrative reviews shall be forwarded to and retained by the Internal Affairs Section in accordance with department policy.

#### **300.9 TRAINING**

Officers will receive training on this policy during annual in-service training and demonstrate their knowledge and understanding. The training shall include a review of conditional terms contained within the policy.

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Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

#### **300.10 ANNUAL USE OF FORCE ANALYSES**

Annually, the Internal Affairs Section shall conduct a documented analysis of the Department's use of force activities, policies and practices. The purpose of the annual analyses is to identify any existing patterns or trends that could indicate training needs, equipment upgrades and/or policy modifications.