



# Use of Force

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**Related Policies:** 2.01.0317, 2.01.0606, 2.02.0302, 2.02.0303, 3.01.1503, 3.07.0102, 4.04.0201

## PURPOSE

This policy provides guidance and philosophy for State Patrol troopers as they carry out their daily duties and encounter potential use-of-force incidents.

## DEFINITIONS

- **Active threat** is a suspect(s) that is actively engaged in causing or threatening to cause death or serious bodily injury to a large number of victims and is ongoing when law enforcement arrives.
- **Administrative Review** is a documented review of an incident or occurrence prepared by or for the Chief or designee that indicates whether policy effectiveness, training, equipment, or member compliance issues should be addressed.
- **Bodily Injury** - Physical pain, illness, or any impairment of physical or mental condition
- **Chokehold** means a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake of air. It also means 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.
- **Civilian Member** is any member of the State Patrol who is not a Colorado Peace Officer Standards and Training (POST) Certified trooper.
- **Deadly Physical Force** means force for which the intended, natural, and probable consequence is to produce death and that does, in fact, produce death.
- **Excessive Force** means the degree of physical force that exceeds the degree of physical force reasonably necessary to affect an arrest or otherwise control an incident as defined in C.R.S. 18-8-803. Excessive physical force will be reported as described in C.R.S. 18-8-802.
- **Force** is an actual or attempted physical strike or instrumental contact with a person that restricts the movement of a person, including any physical coercion used to effect, influence, or persuade a person to comply with an order from a peace officer. Force upon a person can include but is not limited to the discharge of a firearm, use of chemical spray, use of hard techniques, taking a person to the ground, or deployment of a canine trained in control tactics. Force does not include escorting or handcuffing a person.

- **Imminent Danger** is an immediate and reasonable belief of a threat to one's safety, or that of another, that justifies the use of physical force or would put a reasonable and prudent person to their instant defense.
- **Imminent Death** is based on the totality of circumstances, and a reasonable officer would believe a person has the ability, the opportunity, and an apparent intent (jeopardy) to inflict serious bodily injury or death to the officer or another person.
- **Less Than Lethal or Non-Deadly Force** - The level of force required to gain compliance that may cause bodily harm but is not known or intended to cause death.
- **Medical aid** may include increased observation to detect changes in condition, flushing chemical agents from the eyes, and applying first aid or immediate aid by medical professionals.
- **Objective Reasonableness** is the legal standard by which the appropriateness of a police officer's actions is judged based on the circumstances that faced the officer at the time they acted.
- **Physical Force** is contact with a subject through the member's application of bodily force or object beyond mere verbal commands. It may be applied in self-defense or defense of a third party or may be utilized to affect an arrest or other law enforcement objective when necessary to overcome a subject's physical resistance to the exertion of authority.
- **Reasonable Suspicion** is a particularized and objective basis for the officer to believe that a person may be involved in criminal activity. An officer must be able to articulate facts to support a reasonable suspicion. The trooper can rely upon their own observations, information from other persons, and their training and experience in articulating reasonable suspicion.
- **Regional Investigative Team** is a multi-agency and/or jurisdiction team that includes at least one other police department or sheriff's office or the Colorado Bureau of Investigation that conducts investigations, evaluations, and reviews of an incident involving the discharge of a firearm or other use of physical force, by a peace officer that results in injury or death. [C.R.S. 16-2.5-301]
- **Serious Bodily Injury (SBI)** means bodily injury that, either at the time of the actual injury or at a later time, involves 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. [C.R.S. 18-1-901(3)(p)]
- **Show of Force** Incident is any incident where a trooper un-holsters a weapon with the intent to use physical force toward a person(s), if necessary, in carrying out their duties to accomplish a lawful objective but does not, in fact, use physical force.
- **Totality of Circumstances** means all facts known to a trooper at the time of a use of force incident. There is a constant evolution of variables throughout the incident that includes but is not limited to environmental factors, subject behavior, and the conduct of all persons.
- **Unduly Influence** means the improper use of power or trust in a way that deprives a person of free will and substitutes another's objective by improper, unjust, or excessive means.

- **Use of Force** Incident is any incident where a trooper applies physical force in carrying out their duties to accomplish a lawful objective. A use of force incident may also include show of force tactics. Any use of force or show of force incident requires the completion of a Blue Team Use of Force or Show of Force entry.

## **POLICY STATEMENT(S)**

The State Patrol recognizes the sanctity of all human life. Therefore, members will conduct themselves in a manner that not only meets the restrictions of Colorado Law but also conforms to the guidelines and expectations indicated in this Use of Force policy document. In preserving human life, troopers will utilize the least amount of force necessary through reasonable and appropriate tactical decisions and techniques to achieve de-escalation in use-of-force incidents. During a use-of-force incident, troopers will monitor all involved persons for changes in their well-being and will provide medical aid as necessary and appropriate.

Tactics and techniques utilized will be based on State Patrol-approved training, the trooper's experience, and any facts known by the trooper at the time of the action. Physical force, when applied, will be objectively reasonable and will only be utilized to accomplish lawful objectives.

The State Patrol recognizes de-escalation as the intended resolution or outcome of an incident, accomplished by reducing the intensity of a situation that may involve verbal direction or physical force, including deadly physical force, if objectively reasonable.

Immediately following any use of force incident where a member's action(s) results in the death of or serious bodily injury to another person, the district/branch commander will place the involved member(s) on either paid administrative leave or an alternate duty assignment pending the completion of an administrative review by a designated commander or an administrative analysis by the Professional Standards Section. After considering the administrative review or administrative analysis, appointing authorities, in consultation with a regional commander, may clear members to return to regular duty.

In cases where the District Attorney's office is investigating whether or not a criminal offense has occurred, the Chief has the discretion to return a member to duty prior to the receipt of a letter of declination. Policy 2.01.0317 (Reintegration to Duty) provides additional guidance for a member who was involved in a traumatic incident.

The Chief may order the State Patrol Professional Standards Section to complete an administrative analysis or administrative investigation on any use of force incident in accordance with Policy 2.02.0302 (Member Conduct Complaints and Administrative Investigations).

Troopers will not fire warning shots.

Troopers are prohibited from using a chokehold upon another person.

Troopers shall not use, direct, or unduly influence the use of ketamine or any chemical restraint or behavioral sedative upon another person in a prehospital setting, nor shall troopers compel, direct, or unduly influence an emergency medical service provider to administer ketamine or any chemical

restraint or behavioral sedative pursuant to C.R.S. 25-3.5-209. A trooper who witnesses another trooper's direct use of ketamine or any chemical restraint or behavioral sedative on another person shall report such use under C.R.S. 18-8-805.

Unless otherwise directed by the Chief, the Colorado State Patrol will not conduct a criminal investigation into any member whose actions caused serious bodily injury or death to another person. A local police department, sheriff's office, regional investigative team, Colorado Bureau of Investigation, and/or an appropriate district attorney's office may investigate the incident. If a trooper who was acting in their official capacity is the suspect or a victim of a crime that is being investigated by another agency and is interviewed as a result of that investigation, they are exempted from the written report requirements of this policy.

Title 18, Article 1, Part 7 of Colorado Revised Statutes (C.R.S.) addresses specific legal justifications and exemptions from criminal responsibility for persons in Colorado, including members of the State Patrol, with respect to the use of physical force and deadly physical force. The justifications and exemptions described in 18-1-707 specifically address the use of physical force and deadly physical force for troopers while arresting a suspect or while preventing a suspect's escape from custody.

Except for emergency circumstances addressed in C.R.S. Title 18, Article 1, Part 7 (for example, the circumstance of self-defense or defense of a third person), civilian members of the State Patrol are not authorized to use force.

## **OPERATIONAL PROCEDURES**

### **A. Incident Control and De-escalation**

1. Whenever reasonable and appropriate, considering the totality of circumstances, troopers will employ nonviolent tactics prior to using physical force.
  - a. Verbal techniques may include, but are not limited to, advisements, warnings, and verbal commands.
  - b. Tactical options may include, but are not limited to, movement to a position that is more advantageous or allows greater distance, time, and cover.
  - c. Time and distance may offer a greater variety of tactics and alternatives, including lesser physical force or no force at all.
  - d. Troopers should be prepared to reduce the amount of force applied as the threat is neutralized or the suspect becomes compliant.
2. Choosing to delay the use of physical force through utilizing verbal techniques should always be balanced against the subject's ability to improve their tactical advantage, destroy evidence, alter the incident location or background, or otherwise continue to engage in criminal conduct or threats to human life.
3. Troopers will make every reasonable effort to protect the safety and well-being of all persons on scene and in the immediate area of an incident.
4. Troopers will assess the nature of an incident and engage subjects in a manner that avoids jeopardizing their safety or the safety of others through poor tactical decisions.

5. The State Patrol's Defensive Tactics and Arrest Control program provides options for a trooper to gain.
- B. Use of Physical Force to Accomplish Legal Objectives
1. A trooper, in carrying out their duties, is justified in using objectively reasonable and appropriate physical force upon another person only when the trooper's reasonable belief is that nonviolent tactics will be ineffective in affecting an arrest, preventing an escape, or preventing the imminent threat of injury to the peace officer or another person.
  2. When physical force is applied, it shall only be to a degree that minimizes the risk of injury.
- C. Use of Deadly Physical Force
1. A Trooper is justified in using deadly physical force upon another person when the trooper has an objectively reasonable belief that a lesser degree of force is inadequate and the trooper has objectively reasonable grounds to believe, and does believe, that human life is in imminent danger of being killed or of receiving serious bodily injury.
  2. A trooper is justified in using deadly physical force to make an arrest when all other available means are unreasonable under the totality of circumstances and:
    - a. The arrest is for felony conduct with the use or threatened use of deadly physical force.
    - b. The suspect poses an immediate threat of death or serious bodily injury to the officer or another person, and
    - c. The force does not create a substantial risk of injury to other persons.
  3. A trooper shall not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense.
- D. Medical Aid Requirements
1. Troopers will ensure that there is no longer a reasonable threat to their safety or that of persons on scene of a use of force incident. Then, they will assess all injuries to themselves, other law enforcement officers, victims, witnesses, bystanders, and the subject.
  2. Troopers will provide basic medical aid to injured persons unless they are unable to do so because of their own injuries.
    - a. The following factors should be taken into consideration:
      - I. The type of physical force used;
      - II. Any apparent or probable injuries;
      - III. Statements made by the person as to their medical or mental condition;
      - IV. The suspected diminished capacity of the person as a result of drug/alcohol intoxication, mental condition, and/or other physical disability.
  3. Troopers will summon medical aid when needed.
  4. Troopers will continuously reassess the condition of injured persons while awaiting emergency medical services.
  5. Troopers shall not direct or influence the use of ketamine or any chemical restraint or behavioral sedative on another person by an emergency medical service provider.
    - a. Troopers shall not unduly influence an emergency medical service provider's medical decision or diagnosis.

- I. Notwithstanding, a trooper may provide critical medical information or any other pertinent information about the individual or the scene of the emergency that may assist the emergency medical service provider's assessment of the need to administer ketamine or any chemical restraint or behavioral sedative.
  - II. Any trooper who witnesses another trooper use or direct the use of ketamine or any chemical restraint or behavioral sedative on another person shall report such use to the P.O.S.T. Board.
    - i. The report must include the date, time, and place of the occurrence; the identity, if known, and a description of the participants; and a description of the events.
    - ii. The report must be in writing and made within ten (10) days of the occurrence of the use of ketamine or any chemical restraint or behavioral sedative.
    - iii. Upon receipt of such a report, the P.O.S.T. Board shall submit the report to the State Patrol, which shall investigate the alleged violation and transmit the findings of the investigation to the P.O.S.T. Board.
6. The State Patrol will ensure that any identified relatives or next of kin of any persons who sustained serious bodily injury or death are notified as soon as practicable.
- E. Duty to Intervene and to Report Excessive Force and Use of Ketamine or Any Chemical Restraint or Behavioral Sedative Incidents
1. Members of the State Patrol shall intervene to prevent or to stop a peace officer from the use or continued use of physical force that is in excess of that permitted by this policy or any other statute during that peace officer's law enforcement duties.
    - a. This applies during an arrest, detention, custody, booking, or crowd/riot control incidents.
    - b. Regardless of rank, title, status, tenure, or similar consideration, troopers shall intervene.
    - c. A member shall not retaliate or discipline a trooper who intervenes or who reports excessive force.
  2. A trooper shall intervene, without regard for chain of command, to prevent or stop another peace officer from using or directing the use of ketamine or any chemical restraint or behavioral sedative in pursuance of the other peace officer's law enforcement duties to effect an arrest, detention, restraint, transport, or punishment; to prevent an escape from custody; or to facilitate ease and convenience in law enforcement encounters.
    - a. A member shall not retaliate or discipline a trooper who intervenes to prevent the use of or the direction to use ketamine or any chemical restraint or behavioral sedative upon another person.
  3. A trooper will immediately report any use of force intervention to their immediate supervisor and will complete a written report within five calendar days of the incident.
    - a. The report must include the date, time, and place of the occurrence, the identity of the law enforcement officer involved (if known), a description of the participants (if known), and observations of the physical force used and intervention actions taken.
    - b. If the intervention is an incident with another State Patrol Trooper, the report shall be included in the use of force incident case file within BlueTeam.
    - c. If the intervention is an incident involving another law enforcement agency's officer, the

troop/section commander will forward the written report to that agency's internal affairs function or their Chief Executive Officer and the Professional Standards Section.

4. A trooper will immediately report any intervention against the use of ketamine or any chemical restraint or behavior sedative on a person to the P.O.S.T. Board within ten (10) days of the incident. The P.O.S.T. Board will notify the State Patrol, which shall conduct an internal investigation if required pursuant to C.R.S. 18-8-805.

#### F. Reporting a Show of Force While on Duty

1. For a show of force incident reporting, a weapon includes the duty handgun, secondary handgun, long guns, EMDT, OC spray, baton, less-than-lethal munitions systems, and other displayed weapons.
2. The BlueTeam Show of Force entry shall be completed prior to the end of the shift.
  - a. The trooper who completes the BlueTeam entry will include all secondary troopers who were on the scene at the time of the show of force.
  - b. For show of force incidents where a trooper initiates the contact, all troopers who were on scene and either witnessed or showed force shall complete a written report within five days documenting their involvement.
  - c. For show of force incidents where troopers are assisting other agencies, the trooper who completes the BlueTeam entry will include all details in the summary.
  - d. For show of force incidents involving civil unrest or critical incident response, the State Patrol supervisor will complete a Show of Force entry, include all troopers in their command or control, and include all details in the summary.
3. All tactics leading up to a use of physical force or deadly physical force are captured in the BlueTeam Use of Force entry, and therefore, troopers do not need to complete a separate Show of Force entry.

#### G. Reporting a Use of Force While on Duty

1. As soon as practicable after a use of force incident, all involved member(s) will verbally advise their supervisor.
2. The primary trooper in a use of force incident shall complete a Use of Force entry in BlueTeam prior to the end of their current shift.
  - a. The primary trooper will include information from the initiating trooper (if a different trooper from the primary) and all secondary troopers who were on the scene at the time of the use of force.
  - b. A separate use of force entry is required if a trooper has gained control or the subject becomes compliant, and at a later time, the subject becomes physically uncooperative, and additional physical force is needed to accomplish the objective.
  - c. A separate use of force entry is required for each subject against whom physical force was used.
3. Within five days, a written report in accordance with Policy 3.07.0102 (Case Files, Field Reports, and Records) documenting what led to the use of physical force will accompany the Use of Force entry and will describe the techniques or other use of physical force used, the area of the body affected, the amount of physical force used, and any visible injuries sustained.

4. Any and all secondary members who were on the scene of a use of force incident who witnessed the incident or applied physical force will provide a supplemental narrative within five days of the incident documenting their involvement.
5. The troop/section commander shall notify the Professional Standards Section Commander and the district/branch commander upon becoming aware of any use of force incident that results in serious bodily injury or death.
  - a. The Professional Standards Section Commander, in conjunction with the district/branch commander, will determine whether an administrative analysis will be conducted.
  - b. The Professional Standards Section will conduct an administrative analysis on any use of force incident resulting in serious bodily injury or death unless otherwise directed by the Chief.
  - c. The Chief may direct the Professional Standards Section to conduct an administrative analysis.
6. The completed Use of Force case report must contain, at a minimum and if applicable:
  - a. Photographs of injuries to all persons and/or damaged property;
  - b. All witness statements;
  - c. The narrative with all applicable information necessary for prosecution.
7. A Use of Force Report is required for any of the following:
  - a. Application of strikes, kicks, shoves, or pulls to a subject;
  - b. Any action that results in injury to or death of another person;
  - c. Use of a Pressure Point or an approved DTAC technique to gain compliance;
  - d. Use of Oleoresin Capsicum (OC) spray;
  - e. Discharge of an Electro Muscular Disruption Technology (EMDT) device during a use of force incident;
    - I. Refer to Policy 4.04.0102 (Electro-muscular Disruption Technology (EMDT) for reporting requirements not related to a use of force incident.
  - f. Discharge of a firearm during a use of force incident.
    - I. Refer to Policy 1.03.0304 (Unintentional Discharge of a Firearm) for reporting requirements not related to a use of force incident.
    - II. Refer to Policy 4.01.0103 (Disposition of Animals) for reporting requirements not related to a use of force incident.
  - g. For incidents relating to the use of force through tactical vehicle intervention methods, refer to Policy 4.04.0201 (Vehicle Pursuits).
8. A supervisor shall complete the Use of Force entry in BlueTeam for a member if a circumstance exists that prevents the member from completing the entry.
9. A use of force is not required when a trooper applies DTAC handcuffing techniques, the basic escort position, or utilizes only verbal techniques.
10. A use of force report is not required for EMDT or firearms training exercises or for recreational use of firearms while off duty.

#### H. Reporting Use of Force When Off Duty



1. Troopers are required to notify a supervisor of their involvement in any show of force incident, use of force incident, and/or law enforcement action taken as soon as practicable after the incident has stabilized.
  2. Troopers will complete all required reports as if they were on duty at the time of the incident.
  3. A supervisor shall complete the Show of Force report or the Use of Force report in BlueTeam for the trooper if circumstances exist that prevent the trooper from being able to complete the report.
- I. Police Action Death Investigation Training
1. The Training Services Branch will provide training to all members who manage police action investigations that result in serious bodily injury or death on the processes that are applied during those investigations.
  2. The Training Services Branch will provide awareness training to all members who are potentially impacted by the investigation and include the possibility of structured delays in interviews of those involved, as well as strategies applied in preserving and collecting items of evidentiary value.

## **ADMINISTRATIVE PROCEDURES**

### **A. Trooper(s)**

1. Complete the BlueTeam Show of Force entry or the Use of Force entry prior to the end of the current shift as appropriate.
  - a. Forward to the supervisor through BlueTeam.
2. Complete narratives and supplemental narratives as required and forward them to the supervisor.

### **B. Supervisor**

1. Complete the Show of Force entry or the Use of Force entry in BlueTeam for a member if a circumstance exists that prevents the member from completing the entry.
2. Once notified via email of a new Show of Force entry or a Use of Force entry, review the case file.
3. Complete a Show of Force report for civil unrest or critical incident responses where no use of physical force occurred.
  - a. Forward the report to the State Patrol incident commander or direct supervisor for the incident.

### **C. Troop/Section Commander**

1. Once notified via email of a new Use of Force Report, review the completed case file in BlueTeam and conduct an administrative review.
  - a. The administrative review will determine and document if any policy, training, equipment, compliance, or other issues should be addressed;
2. Ensure a follow-up investigation has been completed and all successes, challenges, or concerns have been identified.
3. If there is a complaint of misconduct, follow procedures outlined in Policy 2.02.0302 (Member Conduct Complaints and Administrative Investigations).

4. Once notified via email of a show of force incident involving civil unrest or a critical incident, review the report.
  5. Maintain documentation of familiarization training for all troopers within the respective troop on the death investigation processes of each regional investigative team within troop boundaries.
- D. District/Branch Commander
1. Once notified via email of a new Use of Force Report, review the BlueTeam case file the administrative analysis and consult with the regional commander:
    - a. Determine if any further action is required and if none;
      - I. Return the member to duty;
      - II. Approve and close the case.
    - b. Forward the completed case file to the Professional Standards Section via BlueTeam.
- E. Professional Standards Section
- Conduct an administrative analysis as appropriate.
- F. Training Services Branch
- Document training of members.
- G. Staff Support
- Completes NIBRS entries as required.
- H. Administrative Review
- Policy 3.01.1503 (Executive Accreditation Reports) provides information regarding the annual administrative review of policy and training needs.