


Fort Collins Police Services Policy Manual

 FORT COLLINS POLICE	POLICY	301
	TITLE	Response to Resistance Reporting and Review

301.1 PURPOSE AND SCOPE

This policy sets forth procedures for reporting and review of the use of force by agency employees. The intent of this policy is to ensure such incidents are investigated fairly and impartially.

The reporting and review requirements of these incidents are determined by the level of force used, as defined in this policy.

Nothing in this policy is intended to increase, modify, or in any way affect the current legal standards, nor shall any deviation from these guidelines be considered a breach of any legal standard except where the deviation may affect an employee's employment.

301.2 TYPES OF FORCE IN RESPONSE TO RESISTANCE

The type of force used by an employee or the resulting consequences of an action will determine the appropriate level of review. If there is uncertainty about which level of review is appropriate for a given incident, then the higher level should be assumed.

301.2.1 DEPLOYMENT VS. APPLICATION OF FORCE

For the reporting requirements of this policy that involve uses of force, the following terms apply:

- (a) "Application" means that a control device or firearm was used or discharged upon a person to attempt to gain compliance.
- (b) "Deployment" means that a Kinetic Energy Delivery System such as the less lethal baton launcher and pepperball was directed toward a suspect, and the operator acquired "sights on target," but no rounds were delivered.

301.2.2 TYPE 1 USE OF FORCE

The following incidents are Type 1 uses of force and will be reviewed by a supervisor and approved by the next higher level in the chain of command:

- (a) The application of OC spray using an Individual Protection Device.
- (b) A take-down of a person.
- (c) The application of a police baton.
- (d) The application of personal weapons, such as strikes and kicks.
- (e) The application of any device or technique which causes bodily injury, other than temporary discomfort or pain, to any person and the force complies with agency policy, procedures, directives, and training.

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By definition, a Type 1 use of force is a force that does not cause serious bodily injury (CRS § 18-1-901(3)(p)) to any person.

301.2.3 TYPE 2 USE OF FORCE

The following incidents are Type 2 uses of force which the Force Review Board will review:

- (a) The application of a Kinetic Energy Delivery System (such as a 40mm launcher or pepperball).
- (b) The application of a Chemical Agent Delivery System other than using an Individual Protection Device.
- (c) The application of an Electro-Muscular Disruption Device (Such as a Taser).
- (d) The application of a police K-9, other than a narcotics detection dog.
- (e) A vehicle pursuit.
- (f) The application of any device or technique which causes serious bodily injury to any person and the force complies with agency policy, procedures, directives, and training as determined below:
 1. If a control device or technique, as defined in Policy 308 – Control Devices and Techniques, other than a firearm, results in serious bodily injury to any person, the watch commander shall immediately refer the incident to Internal Affairs. Internal Affairs will evaluate and administratively investigate the incident and determine if the application of force complied with agency policy, procedures, directives, and training. If it is determined the use of force did not comply with agency policy, then it shall be considered a Type 3 use of force for further reporting and review.

301.2.4 TYPE 3 USE OF FORCE

The following incidents are Type 3 uses of force and automatically invoke the Critical Incident Response Team (CIRT) protocol for any involved FCPS employee while such employee is on duty.

- (a) Actions or use of force resulting in the death of a person.
- (b) Actions or use of force resulting in the serious bodily injury of a person except as described in this policy.
- (c) Actions or use of force that cause injuries likely to result in death as determined by a physician.
- (d) A firearm is intentionally discharged at a person, vehicle, or structure regardless of whether an injury to a person occurs.

301.2.5 ELEVATION OF USE OF FORCE REVIEW

If an inquiry regarding an employee's use of force indicates the incident requires a different level of inquiry, the appropriate level of inquiry will be used.

- (a) Supervisors may request that the Force Review Board review any Type 1 use of force with the approval of the division assistant chief.
- (b) A division assistant chief or authorized designee may invoke the CIRT protocol on any incident with the approval of the Chief of Police.

301.3 REPORTING

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- (a) Employees must document any reportable use of force as defined in Policy 300 – Response to Resistance in a police report. Where applicable, the report will include a description of any threat made by a suspect or perceived by the employee, a description of the force used and the result of the use of force.
 - 1. Employees involved in a Type 1 or Type 2 use of force will complete, before the end of their shift, an Early Intervention System (EIS) incident report to collect data for purposes of training, resource allocation, analysis, and related purposes as described in Policy 1021 - Early Intervention System.
 - 2. Each level of supervisory review must be completed within 40 working hours of receiving the EIS incident report (1021.3.2).
- (b) Reporting the use of a Type 3 use of force will comply with Policy 1020 – Administrative Investigations and may be accomplished through an interview with investigative personnel assigned to this investigation. In such cases, a supervisor will complete the EIS incident report.

301.4 ADMINISTRATIVE LEAVE

An employee who is involved in a Type 3 use of force or any employee whose action(s) in an official capacity result in death or serious bodily injury to any person will be placed by the employee’s assistant chief or director or authorized designee on an administrative reassignment or administrative leave as defined in Policy 1020 – Administrative Investigations and the applicable collective bargaining agreement.

301.4.1 POST-INCIDENT URINE AND BREATH TESTING

An officer who is involved in a duty-related use of force that results in the death of a person will be requested to undergo urine and/or breath testing for the presence of alcohol or controlled substances in the officer’s body as part of the administrative investigation into the incident; such testing is described in Policy 1012 – Alcohol and Drug Use.

- (a) Testing will not be required absent a supervisor’s determination that there is reasonable suspicion that the employee is physically impaired by alcohol or other intoxicants.
- (b) An officer’s refusal to take the test or to cooperate in the provision of the samples may subject the officer to disciplinary action up to and including termination of employment. The officer will be tested as soon as possible following the incident, but not to exceed eight hours for alcohol testing and thirty-two hours for drug testing. The testing procedure will comply with those in the Procedures for Transportation Workplace Drug Testing Programs, 49 CFR Part 40, using the split sample method. The results of the tests conducted pursuant to this provision cannot be used against the officer in any subsequent criminal proceedings.

An officer who is involved in a duty-related use of force that results in serious bodily injury to a person will only be required to provide urine and breath samples for testing pursuant to an administrative investigation or a supervisor’s determination that there is reasonable suspicion that the employee is physically impaired by alcohol or other intoxicants.

301.5 REVIEW OF TYPE 1 USES OF FORCE

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A supervisor shall conduct a review of a Type 1 use of force. If an incident involves multiple employees with different supervisors, a lieutenant will designate which supervisor will conduct the review. A supervisor who used force during an incident shall not conduct the review.

The responsible supervisor will conduct a thorough review of all police reports, body camera footage, witness statements, and other relevant material related to the incident.

- (a) Incomplete or inadequate reports shall be returned for additional details or clarification.
- (b) The supervisor will review and approve the completeness and accuracy of the EIS incident report.
- (c) The supervisor will decide if the use of force was reasonable.
 - 1. If the supervisor determines the use of force did not comply with agency policy, training, or procedures, the supervisor will initiate a performance complaint or an administrative investigation, as appropriate.
 - 2. If the supervisor determines the use of force did not comply with any law, the supervisor will immediately notify the employee's lieutenant and the division assistant chief, and a criminal and administrative investigation will commence.
 - 3. If the use of force is found to be reasonable, the supervisor will record that finding in the EIS report.

301.6 REVIEW OF TYPE 2 USES OF FORCE

The Force Review Board will review Type 2 uses of force. For consistency, After Action Reports should be prepared for the Force Review Board by an employee's lieutenant, the watch commander, or the SWAT Commander, as appropriate. The After-Action Report will follow the form described in this policy.

- (a) The After-Action Report will be forwarded to the Force Review Board for review.
 - 1. The Force Review Board will determine whether an employee's use of Type 2 force was reasonable.
 - (a) If the Board determines the use of force did not comply with Agency policy, training, or procedures, the chairperson of the Force Review Board will initiate the appropriate level of an administrative investigation, as appropriate.
 - (b) If the Board determines the use of force did not comply with any law, the chairperson of the Force Review Board will immediately notify the employee's supervisor, lieutenant, and the division assistant chief. A criminal and administrative investigation will commence.
 - 2. If the Force Review Board reviews the After-Action Report and EIS incident reports without taking further action, the use of force is deemed to have been reasonable.

301.6.1 AFTER ACTION REPORTS – FORM

Section 1: Synopsis providing general information about the incident, including:

- (a) Names of employee(s) using force.
- (b) Names of witness employees.
- (c) Description of force used.
- (d) Description of injuries to any person.
- (e) Description of any damaged property.

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- (f) The tactics used throughout the incident.
- (g) The quality of supervision during and after the incident.
- (h) The performance of control devices, vehicles or police K-9s.

Section 2: EIS incident report

Section 3: Incident reports, statements, evidence sheets, recordings and photographs

Section 4: Incident specific reports or templates:

- (a) Templates for K-9 applications shall be maintained by the K-9 Lieutenant.

301.7 REVIEW OF TYPE 3 USES OF FORCE

During the investigation of a Type 3 use of force, both a criminal investigation and an administrative investigation shall commence immediately after the incident occurs and the OIIP will be invoked.

- (a) Except as otherwise provided in Agency policy, any administrative or criminal investigation required under this policy shall be conducted in accordance with all applicable provisions of Policy 1020 – Administrative Investigations and the applicable collective bargaining agreement.
- (b) The unit(s) responsible for investigating a particular incident shall prepare and submit appropriate reports or briefings to the Chief of Police on the next working day following the incident or as soon thereafter as practical.

301.7.1 TYPE 3 USE OF FORCE, CRIMINAL INVESTIGATION

- (a) Criminal investigations of Type 3 uses of force will be conducted by the 8th Judicial District Critical Incident Response Team (CIRT) and will follow the CIRT protocol.

301.7.2 TYPE 3 USE OF FORCE, ADMINISTRATIVE INVESTIGATION

The Professional Standards Unit is responsible for conducting administrative investigations on certain use of force incidents, including all Type 3 use of force incidents. The Professional Standards Unit Lieutenant or an authorized designee may request assistance from whatever sources he or she deems appropriate in completing the investigation. The investigative personnel involved in the administrative investigation shall not be involved in the criminal investigation.

- (a) The investigation shall be conducted to determine if the involved employee's conduct was consistent with agency policies, procedures, directives, and training.
 1. At a minimum, the investigation should provide enough information to permit assessment of the following:
 - (a) If the actions of the involved employee violated any agency policies or directives, and whether they were intentional or accidental.
 - (b) If the actions of the involved employee were consistent with Agency-approved training.
 - (c) The discharge of a firearm, if one was involved.
 - (d) The tactics used prior to the incident.

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- (e) The quality of supervision prior to, during, and after the incident.
- (b) The Professional Standards Unit Lieutenant or his/her designee shall submit a detailed report of the results of the administrative investigation to the Force Review Board and the employee's assistant chief or director for review and recommendations. Subsequently, it may also be sent to the Citizen Review Board as provided for in the City's Code and Policy 1060 – Citizen Review Board.