

PARKER POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

3.2	EFFECTIVE: August 3, 2012	James Tsurapas, Chief of Police
	REVISED: February 15, 2021	
SUBJECT: USE OF PHYSICAL FORCE		
CALEA: 4.1.1; 4.1.2; 4.1.4; 4.1.5; 4.2.1; 4.2.2; 4.2.3; 4.2.4; 4.3.4; 22.2.1		PAGE: 1 of 16

3.2.1 PURPOSE

The purpose of this policy is to establish procedures governing the use of force by commissioned officers of the Department.

3.2.2 POLICY

An enforcement member (commissioned officers and community services officers) having probable cause, shall apply nonviolent means, and de-escalation techniques when possible, before resorting to the use of physical force. A commissioned officer 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 commissioned officer or another person. The reasonableness of an enforcement member's use of force is based upon the totality of the circumstances at the moment that the force is used. Commissioned officers shall promptly complete and submit a Use of Force Report whenever they use more than ordinary custody and escort force. <4.1.1>

3.2.3 DEFINITIONS

- A. *Less-lethal force philosophy* - a concept of planning and force application, which meets operational objectives, with less potential for causing death or serious injury than conventional police tactics.
- B. *Kinetic energy impact projectiles* - flexible or nonflexible projectiles, which are intended to incapacitate a subject with a reduced potential for causing death or serious physical injury, when compared to conventional projectiles.
- C. *Physical Force* – the application of physical techniques or tactics, chemical agents, or weapons to another person.
- D. *Deadly physical force* - force, the intended, natural and probable consequence of which is to produce death, and which does, in fact, produce death.
- E. *Serious Physical Injury* – A bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ. <4.2.3>
- F. *Safety priorities*:
 - 1. hostages;
 - 2. involved nonsubject, noncommissioned members;
 - 3. enforcement members; and

4. subjects.

- G. *Subject* - the person who is the focus of the police operations procedure.
- H. *One-Plus-One Theory* - advocates that an enforcement member can use one level of force higher than the level of resistance used by the subject, provided that all other statutory requirements are met.
- I. *Chokehold* – 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. Chokehold 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. <4.1.6><4.1.7>

3.2.4 PROCEDURE <4.1.1>

The following basic factors are considered in determining reasonableness. Reasonableness is based on the totality of the circumstances at the moment force is used. The following factors are among those that will be considered in determining reasonableness and are not listed in the order of priority.

- A. Imminent threat of injury to enforcement members and/or others. The greater the level of the threat, the greater the level of force that may be used, provided that physical force is authorized by Statute.
- B. If the subject is actively resisting seizure, the commissioned officer may escalate the justified (reasonable) level of force.
- C. Circumstances are tense, uncertain and rapidly evolving. Some incidents take hours to resolve, while others are over in a few seconds. The more tense, uncertain and rapidly evolving the incident, the higher the level of force that may be reasonable.
- D. Attempting to evade seizure by flight may justify escalating the level of force, provided that the level of force is in compliance with Statute.
- E. Each situation is unique. Sound judgment and the circumstances of each situation will dictate the level of force the enforcement member deems necessary. Depending on the circumstances, enforcement members may find it necessary to escalate or de-escalate the use of force. It is not the intent of this policy to require enforcement members to attempt to exhaust each lower level of force before moving to the next higher level, so long as the level of force used is reasonable and appropriate under the circumstances. Enforcement members are not required to retreat to avoid using force. However, commissioned officers, shall, when possible, apply nonviolent means before resorting to the use of physical force.
- F. Commissioned officers may only use physical force 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 enforcement member or another person.
- G. Enforcement members will treat subjects in a fair and humane manner. They will not mentally or physically abuse any subject in custody or use unnecessary force.

- H. Commissioned Officers will attempt to utilize those control techniques and tactics that are departmentally approved with the minimum force needed to control the incident.
- I. The Department does not train on chokeholds, and enforcement members are prohibited from using a chokehold on any person, unless otherwise authorized by Statute. <4.1.6> <4.1.7>
- J. Enforcement members shall not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense. However, policy does acknowledge that though original offense, which results in an attempt to apprehend, may be minor or nonviolent, other offenses can occur during a contact or attempted contact.

3.2.5 DUTY TO REPORT USE OF PHYSICAL FORCE / DUTY TO INTERVENE <4.2.1 d.>

- A. Enforcement members shall, as soon as reasonably practical, report the circumstances of all incidents involving use of force to a supervisor or command officer.
- B. Additionally, commissioned officers shall intervene to prevent or stop another commissioned officer from using physical force that exceeds the degree of force permitted. A commissioned officer who fails to intervene commits a class 1 misdemeanor.
- C. Colorado law requires that a commissioned officer who witnesses another commissioned officer use physical force which exceeds the degree of physical force that is reasonable and appropriate under the circumstances must notify the immediate supervisor as soon as practicable, and shall report such use of force, in writing within ten (10) days of the occurrence of the use of force. Any commissioned officer who fails to report such use of force commits a class 1 misdemeanor under C.R.S. § 18-8-802, as amended.
- D. At a minimum, the report shall include the date, time and place of the occurrence, the identity and description of the participants and a description of the events and force used and/or the intervention actions taken.
- E. The Use of Force Report shall be appended to all other reports of the incident.
- F. The Department shall also report to the Division of Criminal Justice, all Statutorily required information, related to a use of force that results in death or serious bodily injury.

3.2.6 DEFENSIVE TACTICS

Enforcement members are required to follow those prescribed methods of defensive tactics that have been established by the Department. Enforcement members will attend Department-approved training. Annually, enforcement members will receive the required defensive tactics in-service training by certified instructors. Proficiency training will be monitored by a certified weapons or tactics instructor. <4.3.3 a.>

3.2.7 POLICE EXPANDABLE BATON <4.1.4>

- A. The expandable baton is used as an intermediate defensive weapon. Use of the expandable baton is justified in situations which require a degree of force greater than that readily provided by weaponless control techniques, but less than that provided by using a firearm.

- B. The expandable baton should be used to strike someone only when lesser means have been tried unsuccessfully, when lesser means are not feasible or as protection from an assault by a subject.
- C. Enforcement members will attempt to utilize appropriate expandable baton techniques or tactics necessary to control the incident.
- D. Subjects who are struck by an expandable baton where physical injury is sustained shall be transported to a medical facility for examination as soon as reasonably practical and the commissioned officer will complete a Use of Force Report. <4.1.5> <4.2.1 c.>
- E. Only enforcement members demonstrating proficiency in the use of the expandable baton will be approved to carry it. <4.3.2>
- F. Any expandable baton found to be unsafe by design or by condition will be removed immediately from service. It will either be replaced or not placed back into service until repaired. <4.3.1 d.>

3.2.8 RIPP HOBBLE RESTRAINTS

- A. RIPP Hobble restraints may be used as leg restraints to secure a subject's ankles in violent and/or dangerous situations, or in those instances in which commissioned officers reasonably believe the subject to be an escape risk. Commissioned officers shall not secure restrained feet to the handcuffs or hands of the subject. Commissioned officers shall take special care when a subject's diminished capacity is apparent. Diminished capacity can result from intoxication, influence of controlled substances, discernable mental condition, or any other condition apparent to commissioned officers at the time. The diminished capacity could result in a serious medical condition and commissioned officers should call the Fire Authority for a medical evaluation. RIPP Hobble restraints may also be used in place of handcuffs when handcuffs are not available or as a transport belt.
- B. Application of RIPP Hobble restraints requires a Use of Force Report. <4.2.1 c.>

3.2.9 POLICE CANINE <4.1.4>

- A. The mere presence of a police canine or its use in the searching of buildings and other areas does not, in itself, constitute the use of physical force.
- B. If police canines are used to make physical contact with a subject, that use will constitute physical force. Justification for using a police canine in this manner may include, but is not limited to, the following:
 - 1. to gain control of a combative subject;
 - 2. to disarm a subject;
 - 3. to protect enforcement members or others from being injured by a subject;
 - 4. to apprehend a subject unlawfully fleeing from police.
- C. Police canines can inflict injury and should be used only when lesser means have been tried unsuccessfully or when lesser means are not feasible.

- D. Subjects apprehended by a police canine should be transported as soon as feasible to a medical facility for examination. <4.1.5>
- E. Any incident where a canine was deployed on the subject will require a Use of Force Report. <4.2.1 c.>

3.2.10 CHEMICAL AGENTS <4.1.4>

Deployment of chemical agents is restricted to properly trained and authorized enforcement members. Pepper spray used in compliance with the below guidelines is lawful, nondeadly force. Pepper spray used in compliance with these guidelines is authorized to affect a lawful arrest, to prevent escape from lawful custody or to defend the enforcement members or another from the use of unlawful physical force.

A. Definitions:

1. *Pepper spray* - a liquid spray containing oleoresin capsicum in sufficient concentration to produce a short period of pain, gagging, and impairment of vision.
2. *Hands-on techniques* - touching or attempted touching by an enforcement member of the subject, *i.e.*, the application of pressure to turn, guide, escort, search or handcuff the subject being arrested.
3. *Verbalizing* - a vocal persuasion and/or command used to attempt to gain the subject's cooperation.
4. *Warning* - verbally informing the subject that the enforcement member is about to use pepper spray.

B. Pepper spray may not be used against a subject who:

1. submits peacefully to arrest and complies with lawful commands during the arrest and while in custody; or
2. complies with lawful commands during an investigative stop or noncustodial arrest for citation purposes or while in custody; or
3. is securely handcuffed except where there is an articulable risk of injury to a enforcement member or others; or
4. is expressing mere verbal disagreement that does not threaten or incite others, or threaten an enforcement member and is not interfering with, delaying or obstructing an enforcement member's duties. Citizens have the right to express verbal disagreement with an enforcement member's actions. Pepper spray cannot be used in response to language which may be offensive but is not imminently threatening.

C. Deployment of Pepper Spray

1. If circumstances allow verbalizing and warning without risk to the safety of the enforcement member or others, then such warning should be given. Verbalizing and warning is not required when the subject resists hands-on techniques, resists more substantial force, or when there is a risk to the safety of the enforcement member or others if use of pepper spray is delayed.
2. A subject who refuses to submit peacefully to lawful arrest or attempts to escape from lawful custody or refuses compliance with lawful orders during arrest, detention or custody is subject to the use of pepper spray.
 - a. After the enforcement member has attempted hands-on techniques and the subject resists that attempt; or
 - b. when the enforcement member reasonably believes the use of hands-on techniques will jeopardize the enforcement member's or another's safety; or
 - c. when the circumstances reasonably indicate that attempting hands-on techniques may lead to an escalation of force and accompanying risk of physical injury to the subject being arrested, to the enforcement member or to any other person.
3. A subject who assaults enforcement members, or whose conduct reasonably appears to be an imminent threat to the safety of the enforcement member or someone else, or who resists hands-on techniques or flees from lawful arrest or custody, is subject to the use of pepper spray. Verbalizing and warning is not required.
4. Enforcement members who discharge pepper spray on a subject will complete a Use of Force Report. <4.2.1c.>
5. When an enforcement member deploys pepper spray, those affected should be evaluated by medical personnel as soon as reasonably practical. <4.1.5>
6. Only enforcement members demonstrating proficiency in the use of chemical agents will be approved to carry it. <4.3.2>
7. Any pepper spray found to be unsafe by design or by condition will be removed immediately from service and not placed back into service until repaired or replaced. <4.3.1 d.>

3.2.11 CONDUCTED ELECTRICAL WEAPON (CEW) USE <4.1.4>

A. CEW

The CEW is a less-lethal, conducted-energy weapon that may be used in situations where an intermediate weapon form of control is necessary and reasonable. It may be used to control dangerous or violent subjects, to include subjects threatening suicide.

B. Force Continuum

The CEW is considered an intermediate weapon form of control. The object of this level of force is to gain compliance and control while minimizing the risk of injury to the enforcement members, the subject being placed into custody and innocent bystanders.

C. Deployment

The CEW may be deployed on a subject when the enforcement member believes:

1. that an intermediate weapon form of control is both reasonable and necessary;
2. that other attempts to subdue the subject have been, or are likely to be, ineffective in the situation;
3. that it will be unsafe for enforcement members to approach within physical contact range of the subject, based upon the verbalization and/or physical posturing of the subject; and
4. that other exigent circumstances where use of an intermediate weapon would be reasonable and appropriate.
5. It is important for enforcement members to attempt to verbalize directions or commands to the subject, if the situation and time constraints allow that to occur. Verbalization may lead to de-escalation of the situation and thus reduce the chance of injury to both the subject and the enforcement member operating the CEW.
6. Enforcement members should take the following steps in the operation of the CEW:
 - a. Place the safety in the up position, which will activate the laser sight. Aim at the subject using either the laser sight or the fin and blade sights.
 - b. The primary target area is the lower torso to the back if possible.
 - c. The enforcement members should be within the range of the cartridge capability.
 - d. Press the trigger to deploy the probes. There is an automatic five-second timing cycle to the weapon.
 - e. If the subject behaves in an aggressive/combatative manner after the weapon is deployed, the trigger can be pressed more than once to gain compliance.
 - f. The automatic timing cycle may be overridden by placing the safety in the downward position.

D. Enforcement members should avoid deploying the CEW when the subject is:

1. Passive or Nonthreatening.
2. In control of a motor vehicle.

3. In danger of falling from heights or could be caught in machinery or heavy equipment which could result in death or serious bodily injury.
4. Near flammable or combustible fumes.
5. Near a pool, lake or similar body of water where the subject could become submerged.

E. Medical Treatment/Probe Removal

Whenever the CEW is used and the probes or "drive stun" (actual device) makes contact with the subject's skin or clothing, the subject shall be examined by medical personnel as soon as reasonably practical. Probes that are embedded in any area of a subject's body shall be removed only by medical personnel. All wounds should be photographed and documented for evidentiary purposes, if possible. <4.1.5>

F. Evidence

The removed probes and cartridge shall be booked into evidence as bio-hazardous material. The probes should be treated as bio-hazardous material and latex gloves should be worn while handling them. If possible, Anti-Felon Identification (AFID) tags should be collected from the scene which correlate to the serial number on the expended cartridge and booked into evidence with the cartridge. The corresponding serial number of the CEW and expended cartridge shall be included in the enforcement member's report, including the date and approximate time the weapon was used on the subject.

G. Investigation and Reporting

1. All probe deployments and drive stuns against a subject shall be documented on a Use of Force Report. The use of the laser sight as a deterrent does not require a Use of Force Report. <4.2.1 c.>
2. An investigation will be conducted into any situation involving a probe deployment or drive stun.
3. The scope and magnitude of the investigation will be decided by the Chief of Police, Deputy Chief or authorized designee.

H. Training

1. Only enforcement members trained and certified in the use of the CEW may deploy it. <4.3.2>
2. Enforcement members who are certified to use the weapon are required to attend the prescribed training under the guidance of a certified instructor. Coursework shall include all topics in the instructor lesson plan, including all drills and functional demonstrations. <4.3.3 a.>
3. Certified enforcement members are required to pass a written examination.
4. Certified enforcement members are required to pass all functional tests.

5. Certification is valid for a period of one year. Enforcement members must re-qualify annually. <4.3.3 a.>
6. Certification is a privilege and may be revoked at any time, for any reason, by the Chief of Police, Deputy Chief or authorized designee.

I. Inspection

All Department-issued CEWs will be inspected on an annual basis. Any CEW found to be unsafe by design or by condition will be removed immediately from service and not placed back into service until inspected by the Department CEW instructor and found to be safe. <4.3.1 d.>

3.2.12 OTHER LESS-LETHAL WEAPONS <4.1.4>

Enforcement members are not authorized to carry any other less-lethal weapons, unless authorized by the Chief of Police, Deputy Chief or authorized designee. A list of all less-lethal weapons will be kept by the Office of Professional Standards. <4.3.1 a.>

3.2.13 LESS-LETHAL, EXTENDED-RANGE IMPACT DEVICES <4.1.4>

This addresses the training and use of extended-range, less-lethal weapons and projectiles. The Department recognizes that combative, noncompliant, armed and/or violent subjects cause handling and control problems that may require special training and equipment. Thus, the Department has adopted the less-lethal force philosophy which, under appropriate circumstances, may be used to assist with the de-escalation of these potentially violent confrontations.

3.2.14 TYPES OF LESS-LETHAL, EXTENDED-RANGE IMPACT DEVICES <4.1.4>

- A. There are many projectiles considered less lethal. The primary type used by the Department is the flexible baton – 12-gauge.
- B. Kinetic energy impact projectiles should be deployed to areas of the subject's body that are considered unlikely to cause death or serious physical injury.

3.2.15 TECHNICAL ASPECTS – KINETIC ENERGY IMPACT PROJECTILES <4.1.4>

- A. Flexible baton – 12 gauge.
- B. Authorized 12-gauge less-lethal rounds are used. These rounds are referred to as the "flexible baton – standard" and the "sock round."

3.2.16 EVALUATION OF PROJECTILES

- A. Kinetic energy impact projectiles should be evaluated using the following criteria:
 1. accuracy;
 2. effectiveness; and
 3. potential for causing death or serious physical injury.

- B. Accuracy is a primary consideration since proper shot placement greatly assists in controlling the other two evaluation criteria.
- C. This should be evaluated based on the anticipated ranges of deployment. A minimal standard of accuracy for such rounds is a 12-inch group at 15 yards for the 12-gauge system achieved from a secure rest.
- D. Effectiveness
 - 1. This measures the potential of the round to cause incapacitation and reduce the subject's ability to continue their inappropriate aggressive behavior.
 - 2. The level of energy necessary to cause incapacitation creates the potential for death or serious physical injury. When properly deployed, this potential is reduced and there is a low probability for causing serious physical injury or death. The potential is also greatly reduced when impacts to the head and neck are avoided and when appropriate medical examination is provided in cases where the subject is struck in an area that might conceal a closed injury, including the chest, back, thoracic and abdominal cavities and the groin.
 - 3. When engaging a target, the enforcement member should, where possible, evaluate the effectiveness of each round during the volley. Compliance and/or incapacitation are the desired goal and alternative target areas/responses should be considered when rounds are not effective. Alternative target area/response considerations should be based on the circumstances the enforcement member is encountering and established Department safety priorities.

3.2.17 DEPLOYMENT AREAS <4.1.4>

- A. The less-lethal projectiles will be delivered to subject target areas based on the circumstances, the established safety priorities, training and the level of force authorized.
- B. The "strike zone" training chart is the recognized Department model for determining contact areas for kinetic energy impact weapons, based on potential for injury.
 - 1. *Green Areas*. These areas will be considered when incapacitation is necessary and a minimal potential for injury is the appropriate response.
 - 2. *Yellow*. These areas will be considered when an escalation of force above green areas is necessary and appropriate, acknowledging an increase in the potential for death or serious bodily injury.
 - 3. *Red Areas*. Head/Neck: Intentional impacts to these areas will be avoided, unless the use of deadly force is justified, necessary and appropriate.

3.2.18 PROTESTS

- A. In response to a protest or unlawful demonstration commissioned officers shall not:
 - 1. Discharge kinetic impact projectiles and all other non- or less-lethal projectiles in a manner that targets the head, pelvis, or back;

- 2. Discharge kinetic impact projectiles indiscriminately into a crowd; or
 - 3. Use chemical agents or irritants, including pepper spray and tear gas, prior to issuing an order to disperse in a sufficient manner to ensure the order is heard and repeated if necessary, followed by sufficient time and space to allow compliance with the order.
- B. Enforcement members must familiarize themselves with the Statute applicable to uses of force with respect to protests and demonstrations, and the prohibitions and restrictions on the use of less lethal or non-lethal weapons or chemical agents.

3.2.18 FORCE CONTINUUM

The Department recognizes the following distinct levels of force.

	Level of Control	Level of Resistance	
Less	Officer Presence	Psychological Intimidation	Force
	Verbal Direction	Verbal Noncompliance	
	Soft Empty-Hand Techniques	Passive Resistance	
	Hard Empty-Hand Techniques	Defensive Resistance	
	Intermediate Weapons	Active Aggression	
More	Deadly Force	Deadly Force Assault	Force

This continuum is designed to be fluid and dynamic. An enforcement member does not need to attempt lesser forms of control with the exhibited level of resistance. At a minimum, enforcement member can use a “plus one” level of control for the immediately exhibited level of resistance.

3.2.19 DEPLOYMENT TECHNIQUES - 12-GAUGE

- A. Commissioned officers are required to load the Department Shotgun with less-lethal rounds before they start their assigned shift.
- B. The Department Shotguns will only carry less-lethal rounds and will have an orange stock designating that gun as less lethal.

3.2.20 FIRST AID AND MEDICAL ATTENTION DUE TO USE OF FORCE AND IN GENERAL

<4.1.5>

After any applied use of force, as reasonable and within the limits of their training and skills, enforcement members shall provide first aid and, as appropriate, promptly summon or provide medical assistance to persons who are injured, complaining of injury or suffering from a medical crisis, or complaining of suffering from a medical crisis. Assistance and medical aid must be rendered as soon as practicable. Enforcement members in such situations shall also notify a supervisor as soon as reasonably possible. Commissioned officers shall continuously monitor for well-being all persons in their custody and, if reasonably possible, photograph any visible injuries or any areas of complained of injury. At any sign of significant injury or medical crisis of a person in custody, appropriate first aid and/or medical attention shall be summoned and/or provided. Persons in apparent need of medical attention may be transported to the Jail only after being checked and released by medical personnel.

- A. Enforcement members shall immediately request an ambulance, paramedics, rescue unit or other appropriate medical aid for all subjects who show signs of or complain of significant injury or medical crisis, notably including any person who is or becomes unconscious or unresponsive.
- B. In those situations, until such time that medical assistance is available and if reasonable under the circumstances, enforcement members shall render first aid within the limits of their training, skills and available equipment and shall ensure continuous monitoring of, and appropriate attention to, the subject.
- C. Subjects taken into custody shall be handled/positioned in conformity to current Department policy and training regarding proper care and avoidance of asphyxia. Officers shall communicate verbally with such subjects more or less continually in order to assure consciousness and responsiveness.
- D. Persons who reasonably appear to be an imminent threat of death or serious injury to themselves or others because of mental problems shall be taken into custody using only reasonable means and transported to mental health facilities for evaluation and appropriate attention.
- E. Emotionally disturbed and mentally ill persons shall be responded to in compliance with Department policy and training regarding dealing with such persons.
- F. Persons who appear to be mentally competent shall be allowed to make their own decisions regarding medical care, but as reasonably necessary medical personnel shall be summoned or provided in order to advise and counsel the individual regarding the need for medical procedures.
- G. Medical assistance shall be immediately summoned and/or provided anytime a subject has been injured, or complains of injury from any physical force, or when physically affected by the following police weapons: <4.1.5>
 - 1. CEWs;
 - 2. Other Impact Munitions;
 - 3. Oleoresin Capsicum (OC); and
 - 4. Firearm.

3.2.21 INVESTIGATION

An investigation will be conducted into any situation involving the firing of a less-lethal round at a subject.

3.2.22 TRAINING

- A. Training in the use of extended-range kinetic energy impact projectiles will consist of the approved Department end-user program and annual recertification. <4.3.3 a.>
- B. Enforcement members will be issued copies of and be instructed in this policy prior to carrying lethal or less-lethal weapons. <4.3.4>

3.2.23 AUTHORIZED USE OF DEADLY OR POTENTIALLY DEADLY FORCE <4.1.2>

- A. Commissioned officers are permitted to use deadly or potentially deadly force where such officers reasonably believe such force is necessary and appropriate pursuant to Statute and legal authority.
- B. Commissioned officers shall apply nonviolent means and de-escalation techniques, when possible, before resorting to the use of physical force, including any use deadly force.
- C. Deadly force may not be used to apprehend a person who is suspected of only a minor or nonviolent offense. However, an initial contact or attempted contact for a minor or nonviolent offense, may result in other offenses which could justify the use of deadly force.
- D. Deadly force may be used only when all other means of apprehension are unreasonable given the circumstances, and when:
 - 1. The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;
 - 2. The suspect poses an immediate threat to the commissioned officer or another person; and
 - 3. The force employed does not create a substantial risk of injury to other persons.
- E. Prior to the use of deadly physical force, a commissioned officer shall identify himself or herself and give a clear verbal warning of his or her intent to use a firearm or other deadly force, with sufficient time for the warning to be observed, unless to do so would unduly place the commissioned officer(s) at risk of injury and/or would create a risk of death or injury to others.
- F. Notwithstanding the above provisions, Statute provides that a commissioned officer is justified in using deadly force if the commissioned officer has an objectively reasonable belief that a lesser degree of force is inadequate and the officer has objectively reasonable grounds to believe, and does believe, that the commissioned officer and/or another person is in imminent danger of being killed or receiving serious bodily injury.

3.2.24 JUSTIFICATION FOR THE USE OF DEADLY OR POTENTIALLY DEADLY FORCE

- A. Justification for the use of deadly or potentially deadly force is based on the totality of circumstances at the moment the commissioned officer decides to use such force.
- B. Regardless of the nature of the crime, or the legal justification for using deadly or potentially deadly force, commissioned officers are reminded that their basic responsibility is to protect the public. Commissioned officers are instructed to be particularly cautious when using deadly or potentially deadly force under conditions that would subject innocent bystanders to substantial danger.

3.2.25 ADMINISTRATIVE LEAVE <22.1.2>

- A. Any member whose action(s) or use of deadly or potentially deadly force in an official capacity that results in death or serious physical injury will be removed from duty or operational assignments and placed on administrative leave with pay, as provided by the Personnel Manual,

or may be placed on a modified duty assignment by the Chief of Police, Deputy Chief or authorized designee, pending a Department criminal investigation and an internal administrative review. <4.2.3>

- B. In situations where a commissioned officer uses potentially deadly force and no injury is sustained, the Chief of Police, Deputy Chief or authorized designee will determine whether the commissioned officer involved should continue with regular duty, be removed from line duty, placed on administrative leave with pay as provided by the Personnel Manual or given modified duty, if practical. The Chief of Police, Deputy Chief or authorized designee will determine the appropriate action from that point.
- C. Administrative leave will end at the order of the Chief of Police, Deputy Chief or authorized designee, unless otherwise stated.
- D. Commissioned officers placed on administrative leave pursuant to this PD Manual will:
 - 1. automatically be placed on administrative work schedule. Generally, the administrative work schedule will be 0800-1700 hours, Monday through Friday, with Saturday, Sunday and Town-authorized holidays off, unless the Chief, Deputy Chief, or authorized designee, specifically authorizes a different schedule in writing;
 - 2. be available by telephone or pager;
 - 3. be able to report on short notice during these prescribed times;
 - 4. honor all court subpoenas; and
 - 5. be temporarily prohibited from working secondary employment.

3.2.26 REPORTING THE USE OF DEADLY, POTENTIALLY DEADLY AND PHYSICAL FORCE

- A. Commissioned officers, as soon as reasonably possible, must notify a supervisor of all incidents in which the commissioned officer uses deadly force, potentially deadly force or physical force.
- B. Also, any commissioned officer who, in the pursuance of law enforcement duties, witnesses another commissioned officer, in the pursuance of law enforcement duties, use physical force which exceeds the degree of physical force permitted by C.R.S. § 18-1-707, as amended, or this PD Manual, must immediately notify a supervisor of this use of force.
- C. Any commissioned officer who witnesses another commissioned officer using physical force that exceed the degree of force permitted by C.R.S. § 18-1-707, in pursuance of other commissioned officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, shall intervene to prevent or stop another commissioned officer from using physical force that exceeds the degree of force permitted by Statute and shall report that intervention to his or her immediate supervisor as soon as practicable.

- D. The supervisory commissioned officer shall direct the commissioned officer who witnessed the alleged use of excessive force to report the incident in writing. The supervisor will determine in what form written reports will be submitted, *i.e.*, offense report, memorandum, etc. Even without such direction, an officer who witnesses an alleged use of excessive force, or intervenes in such an incident, shall create a report documenting the incident/intervention. Such reports shall be made within ten (10) days and 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. Such reports shall be appended to all other reports of the incident, to include the Use of Force report. Failure to report such use of force by another commissioned officer may result in subsequent criminal charges and/or discipline, up to and including termination, and P.O.S.T. decertification or revocation. Knowingly making a materially false statement, which the commissioned officer has reason to believe is not true, in reporting the use of physical force, may result in subsequent criminal charges and/or discipline, up to and including termination.
- E. Excessive physical force will be presumed when a commissioned officer continues to apply physical force in excess of the force permitted by C.R.S. § 18-1-707, as amended, to a subject who has been rendered incapable of resisting arrest.

3.2.27 INCIDENTS THAT REQUIRE NOTIFICATION AND REPORTING

- A. Incidents that require notification and documentation on an offense report and a Use of Force Report include, but are not limited to, the following: <4.2.1 a.,b.,c.,d.>
 - 1. death or serious injury;
 - 2. intentional or accidental discharge of a firearm;
 - 3. use of the expandable baton upon the body of another;
 - 4. use of less-lethal extended range impact device;
 - 5. use of chemical agents;
 - 6. use of CEW;
 - 7. applies weaponless physical force above soft empty hand control;
 - 8. injuries inflicted by police canine;
 - 9. injuries in which medical treatment is required; and
 - 10. other incidents, as requested by a supervisor.
- B. Absent the need for a criminal, internal or risk management investigation, destruction of animals will not require the processing of evidence or photographs of the scene.

3.2.28 REPORTS REQUIRED IN RMS (RECORDS MANAGEMENT SYSTEM) BY RESPONDING ENFORCEMENT MEMBERS

- A. On a deadly-force incident, responding commissioned officers performing any duties connected with the case will complete a report detailing the action taken.

- B. A supervisor may require any responding enforcement member to complete a report on any use-of-force incident.
- C. Any time a commissioned officer deploys his or her firearm to detain, control a situation or arrest a person.

3.2.29 REPORT RESPONSIBILITIES OF NOTIFIED SUPERVISOR

- A. The enforcement member's supervisor who was initially notified is responsible for ensuring that a thorough preliminary investigation and report of the incident are completed. The investigating supervisor will review and approve the Use of Force Report completed by the enforcement member and forward the report through the chain of command for review. <4.22>
- B. Copies of all reports involving the use of deadly, potentially deadly, or physical force will be forwarded to the enforcement member's supervisor, reviewed and approved for compliance, and then the report will be forwarded to the assigned Sergeant who oversees the Department's arrest control tactics for review. The report will then be forwarded to the member's assigned Commander for final review. The final report will be sent to the Office of Professional Standards and to the Deputy Chief. <4.2.2>
- C. All reports involving the use of deadly, potentially deadly and physical force will be maintained in the Department-approved database and will include a review by the OPS to ensure accuracy and designation of compliance through the chain of command.

3.2.30 REPORTING THE USE OF DEADLY, POTENTIALLY DEADLY AND PHYSICAL FORCE OFF DUTY

Off-duty commissioned officers who use any degree of force or display any weapon in a law enforcement capacity are required to notify the on-duty supervisor. In the event a supervisor is not on duty, the on-call supervisor will be notified of the incident, as soon reasonably practical.