



<p>Pueblo County Sheriff's Office General Order Policies and Procedures Manual Pueblo County Law Enforcement Bureau Section 3</p>	
Chapter: Part 7	Subject: Deadly Force-Response to Resistance
Related CALEA Standards: Related CALEA Standards: 1.2.2, 1.2.10, 4.1.1, 4.1.2, 4.1.3, 4.1.5, 4.2.1 4.2.2, 4.2.4, 4.2.5	

Authority

This policy is issued pursuant to Sheriff David J. Lucero's directive in which authority to manage and direct all activities connected with the Use of Deadly Force is delegated to the Law Enforcement Bureau Chief.

Purpose

This policy provides guidance by defining Deadly Force-Response to Resistance, the training as to when it is appropriate, conducting the investigation when Deadly Force is applied and the review of the incident.

Policy

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. Definitions of conditional terms, such as those for reasonable belief, serious physical injury, or similarly used terms used to qualify the directive, shall be included and reviewed during annual in-service training. <4.1.2>

Senate Bill 20-217 Reference

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

Reasonable belief, as used in this policy, is defined as the acts or circumstances the deputy knows, or should know, are such as to cause an ordinary and prudent deputy to act or think in a similar way under similar circumstances.

Serious bodily injury, as used in this policy, is defined as 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 function or organ.

The deputy's responsibility for protecting life must include his own. The guidelines for use of physical and/or deadly force by deputies will be based upon Colorado Revised Statutes. <1.2.2>

Objectively Reasonable:

That an officer's actions were reasonable in light of the facts and circumstances confronting him or her, without regard to his or her underlying intent or motivation. Term "objectively reasonable" is the true and most accurate legal standard when both teaching UOF/RTR or evaluation an officer's past use of force.

1. Being in accordance with reason, (Webster)
2. Not extreme or excessive. (Webster).

Use of Deadly Physical Force Procedure

ALL ARMED PERSONNEL SHALL NOT DISCHARGE FIREARMS IN THE PERFORMANCE OF THEIR DUTIES, EXCEPT DURING AUTHORIZED TARGET PRACTICE AT AN APPROVED RANGE, OTHER THAN UNDER THE FOLLOWING CIRCUMSTANCES:

Sworn deputies may use deadly force only when the deputy reasonably believes that the action is in defense of any human life, imminent danger of death or serious bodily injury.

To effect an arrest, to prevent an escape, or to recapture an escapee when all other means have failed of a felony suspect when:

- The crime for which the arrest is sought involved conduct including the use or threatened use of deadly force coupled with the present ability to affect such deadly force; and There is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury if his apprehension is delayed.
- To kill a dangerous animal or one which humanity determines is gravely suffering from some illness or injury, and other disposition is impractical based upon the merits of the situation.
- No distinction shall be made relative to the age of the intended target of deadly force. Self-defense and immediate threat shall be the only policy guideline for employing deadly force. If a suspect is injured through the use of a lethal weapon, officers will render appropriate medical aid when it is safe to do so.
- Appropriate medical aid is rendered as quickly as reasonably possible following any law enforcement action in which injuries have been sustained; and includes procedures for activating the emergency medical system when obvious severe injuries have occurred, medical distress is apparent, or the individual is unconscious. <4.1.5>

Prohibited Discharge

Firearms shall not be discharged under the following circumstances:

1. As a warning. <4.1.3>
2. At moving or fleeing vehicles, unless that vehicle is itself being used as a deadly weapon or with the direction of a supervisor.

DUTY TO INTERVENE

CRS 18-8-802 DUTY TO REPORT USE OF FORCE-DUTY TO INTERVENE

AN OFFICER SHALL INTERVENE TO PREVENT OR STOP ANOTHER OFFICER FROM USING PHYSICAL FORCE THAT EXCEEDS DEGREE OF FORCE PERMITTED BY STATUTE:

- In making an arrest
- Placing a person under detention
- Taking a person into custody
- Booking any person, or
- In the process of crowd or riot control, without regard for the chain of command

Pueblo County Sheriff's Office members are required to intervene and notify appropriate supervisory authority if they observe another agency employee or public safety associate engage in any unreasonable response to resistance or if they become aware of any violation of department policy, state/provincial or federal law, or local ordinance. <1.2.10>

DUTY TO REPORT INTERVENTION TO IMMEDIATE THE SUPERVISOR REPORT MUST BE MADE IN WRITING

- Report must be made within 10 days of the use of force incident
- report must be appended to all other reports of the incident

NO OFFICER SHALL BE DISCIPLINED OR RETALIATED AGAINST FOR:

- Intervening
- Reporting unconstitutional conduct, or
- Failing to follow what the officer REASONABLY believes is an unconstitutional order

FAILURE TO INTERVENE IS NOW A CRIMINAL OFFENSE

Officers who fail to intervene to prevent the use of unlawful physical force commits a CLASS 1 MISDEMEANOR

- Finding by administrative law judge or internal investigation that an officer failed to intervene to prevent the use of unlawful physical force must be presented to the District Attorney for consideration of criminal charges.

**If DA charges an officer based on the use of EXCESSIVE FORCE but declines charges against an officer on scene for failure to intervene in such a force, DA is required to prepare and publish report explaining the basis for that decision.*

Allows for officers who fail to intervene to also be charged under conspiracy and accessory legal theories.

Termination and POST Revocation

Finding by ALJ, hearing officer, or internal investigation that officer failed to intervene AND the incident resulted in SBI or Death.

- Employer SHALL discipline officer up to and including termination, AND
- POST Board SHALL PERMANENTLY decertify the officer upon notice of the discipline.
- POST revocation may only be overturned if the officer is exonerated by a court

Annual In-Service Training

All Office personnel authorized to carry weapons are required to receive in-service training on the use of deadly force policies and demonstrate proficiency with all approved lethal weapons the deputies are authorized to use, i.e. firearms, batons, etc. In-service training for other less lethal weapons and weaponless control techniques shall occur at least biannually. <4.3.3>

Proficiency training will only be monitored by a certified weapons instructor. <4.3.3 a>

Training and proficiency will be documented by the Training Section. <4.3.3 b>

Remedial training will be provided to any deputy/member that is unable to qualify with an authorized weapon prior to resuming official duties. Remedial training for firearms will be as follows:

- If a member fails to qualify on the first attempt. The range instructor will give the member 5 to 15 minutes of remedial training concerning the issues noted by range instructors as they relate to the member.
- If the member fails to qualify on the second attempt the range instructor will provide up to one hour of remedial instruction to the employee on the range.
- If the employee fails to qualify on the third attempt the employee's firearms privilege will be immediately revoked, and the employee will not be allowed to work in a position where a firearm is required until the member has gone through problem specific training class set up by the training division and a firearms instructor as soon as practical. The range instructor who revokes the firearms privilege will notify the involved members Captain as soon as practical. <4.3.3 c>

Notification and Reporting Requirements

This procedure is to be followed when a firearm is discharged:

Whenever a deputy of the Office discharges a firearm for other than training or recreational purposes, they shall verbally notify their supervisor as soon as time and circumstances permit. If such supervisor is off duty and cannot be contacted, then the next higher-ranking supervisor will be contacted and advised. <4.2.1 a>

The deputy who discharges a firearm shall file a written report of the incident by shift's end unless the incident dictates otherwise. <4.2.1 c> A report will also be written when the deputy applies weaponless physical force. <4.2.1 d>

The sheriff or his designee may allow a time extension based on the incident. If the deputy who discharged a firearm is hospitalized or fatally injured and incapable of filing the report required in (B) their supervisor is responsible for filing as complete a report as soon as possible pending further investigation.

Investigation by a Supervisory Officer

The immediate supervisor of the deputies involved shall investigate each discharge of a firearm personally. If the discharge occurs when there is no supervisory officer on duty, the next ranking supervisor shall personally conduct the investigation when notified that the discharge of firearms has taken place.

If the discharge of a firearm has resulted in or is alleged to have resulted in, or death of another person, the Sheriff will be notified immediately. <4.2.1 b>

If NO personal injury has occurred as the result of a firearm being discharged, the Sheriff will be notified as soon as practical. CIT: Scene will be secured.

After reviewing the involved deputy's reports and conducting a thorough investigation of the circumstances attending the discharge of a firearm, the responsible supervisory officer shall submit a detailed written report of the results of the investigation to the Sheriff. <4.2.2>

The report shall also contain the observations and conclusions of the supervisory officer as to whether the discharge was justified and in accordance with this order. He may also include recommendation for any changes in this policy or necessary training. <4.2.1>

Investigations

The Sheriff may designate any Office representative to further investigate any circumstances involving the discharge of a firearm by a deputy of this Office. Also, refer to General Order Officer Involved Shooting Policy: [GOPP Section 7 Part 3 Officer Involved Shooting](#)

Inquiry

The Sheriff may convene a Board of Inquiry to review the circumstances of any firearm discharge. The Board's purpose is to make recommendations as to preventative measures, needed training, and any possible disciplinary action that may be called for.

Annual Review

A documented annual review /analysis of all Response to Resistance reports will be conducted. This will be used to reveal patterns or trends that could indicate training needs, upgraded equipment needs, and/or policy modifications. <4.2.4> The analysis should identify:

- a. Date and time of incidents. <4.2.4 a>
- b. Types of encounters resulting in response to resistance. <4.2.4 b>
- c. Trends or patterns related to race, age and gender of subjects involved. <4.2.4 c>
- d. Trends or patterns resulting in injury to any person including employees, and <4.2.4 d>
- e. Impact findings on policies, practices, equipment and training. <4.2.4 e>

Assault on Sworn Officer Annual Review

Annually the Pueblo County Sheriff's Office will conduct a review of all assaults on law enforcement officers to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or addressing training issues. <4.2.5>



By Order Of The Sheriff