

COLUMBIA POLICE DEPARTMENT

Policy and Procedure Manual

USE OF FORCE/RESPONSE TO RESISTANCE

Approved By: Geoffrey Jones Chief of Police

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300 USE OF FORCE/RESPONSE TO RESISTANCE

300.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers of the Columbia Police Department with guidelines for the use of less-lethal force or deadly force as a response to resistance or in carrying out lawful law enforcement objectives.

300.2 POLICY (4.1.1)

It is the policy of the Columbia Police Department to value and preserve all human life without prejudice. Officers shall use only the force that is objectively reasonable to bring an incident under control or accomplish lawful objectives, while protecting the safety of the officer and others. Officers should apply de-escalation techniques when possible and shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.

The decision to use force requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.” *Graham v. Conner*, 490 U.S. 386 (1989)

Annually sworn personnel shall complete a documented review of this policy and any questions or concerns should be addressed to the employee’s immediate supervisor for clarification.

Any revisions to this policy shall be communicated to the City Council within ten (10) days of approval by the City Manager. In addition to any other notification deemed appropriate by the City Manager and Chief of Police, additional communication of such revisions to the City Council shall occur in the form of a report placed on the agenda of a regular meeting of the City Council within thirty (30) days of approval. Such report shall be accompanied by a memorandum from the Chief of Police which explains the revision.

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300.3 DEFINITIONS

Definitions related to this policy include:

CHOKE HOLD: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

DEADLY FORCE: Any use of force that creates a substantial risk of causing death or serious physical injury.

DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

IMMINENT: Immediate and/or imminent danger, such as must be instantly met. An appearance of threatened and impending injury as would put a reasonable and prudent person to his/her instant defense. (Black's Law definition)

LATERAL VASCULAR NECK RESTRAINT (AKA Sleeper Hold): A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

LESS-LETHAL FORCE/FORCE: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another. This includes the application of physical techniques or tactics not defined as deadly force, use of chemical agents or deployment of less-lethal weapons to another person.

OBJECTIVELY REASONABLE: The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

SERIOUS PHYSICAL INJURY: Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body (§ 556.061, RSMo).

SWORN PERSONNEL AND/OR OFFICER: A police officer, park ranger or airport safety officer holding a POST commission.

WARNING SHOT: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

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300.4 USE OF FORCE RESTRICTIONS

- A. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- B. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.

300.5 DE-ESCALATION (4.1.1)

- A. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with such officer's training whenever possible and appropriate before resorting to force and to reduce the need for force.
- B. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.
- C. Officers will receive annual training in de-escalation that meets or exceeds that required by Peace Officer Standards and Training (P.O.S.T.) as outlined in 11CSR 75-15.010 Continuing Education Requirement.

300.5.1 USE OF LESS-LETHAL FORCE

When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use agency approved, less-lethal force techniques and issued equipment in the following circumstances:

- A. To protect the officer or others from immediate physical harm,
- B. To restrain or subdue an individual who is actively resisting or evading arrest, or
- C. To bring an unlawful situation safely and effectively under control.

300.5.2 USE OF DEADLY FORCE (4.1.2)

An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:

- A. To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury.
- B. To prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.

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1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another; or
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

Where feasible, a verbal warning should precede the use of deadly force and the officer shall identify self as a law enforcement officer and warn of the intent to use deadly force.

300.6.1 DEADLY FORCE RESTRICTIONS (4.1.2)

Deadly force should not be used against persons whose actions are a threat only to themselves or property.

300.6.2 WARNING SHOTS (4.1.3)

Warning shots are prohibited.

Any discharge of a firearm is considered deadly force.

300.6.3 DISCHARGING FIREARMS AT A MOVING VEHICLE

Firearms shall not be discharged at a moving vehicle unless:

- A. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
- B. The vehicle is operated in a manner which appears to be deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

300.6.4 DISCHARGING FIREARMS FROM A MOVING VEHICLE

Firearms shall not be discharged from a moving vehicle except in circumstances where deadly force is justified and is the only option available to stop an imminent threat.

300.6.5 CHOKE HOLDS (4.1.7)

The Columbia Police Department considers any use of a choke hold as a use of deadly force.

Choke, strangle or similar holds which restrict the person's ability to breathe are prohibited unless deadly force is authorized and, due to the circumstances at hand, is the only reasonable means available at the time to stop the threat.

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Additionally, any hold which involves placing your hands around the neck, airway, or under the jaw of an individual which restricts airflow or prevents the person from swallowing, for the purpose of recovering ingested evidence, is strictly prohibited.

Affected employees will receive documented initial and annual training which will include a clear explanation of what is considered a choke hold as well as a review of this policy stressing the prohibition on its use.

300.6.6 LATERAL VASCULAR NECK RESTRAINT (4.1.6)

The Columbia Police Department considers any use of a Lateral Vascular Neck Restraint as a use of deadly force.

Lateral Vascular Neck Restraints or similar holds which restrict the flow of blood to the brain are prohibited unless deadly force is authorized and, due to the circumstances at hand, is the only reasonable means available at the time to stop the threat.

Affected employees will receive documented initial and annual training which will include a clear explanation of what is considered a Lateral Vascular Neck Restraint as well as a review of this policy stressing the prohibition on its use.

300.6.7 USE OF DEPARTMENT VEHICLE TO STRIKE VEHICLES, INDIVIDUALS, OTHER OBJECTS

The Columbia Police Department considers the use of a vehicle to strike vehicles, individuals or other objects as a use of deadly force.

The use of department vehicles to strike other vehicles, individuals, or other objects is prohibited unless deadly force is authorized and, due to the circumstances at hand, is the only reasonable means at the time to stop the threat.

300.7 DUTY TO INTERVENE (1.2.10)

Any department employee who observes any unreasonable use of force or becomes aware of any violation of department policy, local ordinance, state or federal law is required to intervene and notify a supervisor at the earliest opportunity when it is safe and reasonable to do so.

300.8 PREREQUISITE TO CARRYING LETHAL/LESS LETHAL WEAPONS (4.3.2; 4.3.4)

All employees shall receive all use of force/response to resistance policies, related instruction, and demonstrate proficiency in each weapon issued before being authorized to carry the weapon in performance of their official duties. Receipt of policy and curriculum will be documented through PowerDMS and the Training and Recruitment Unit.

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300.8.1 AUTHORIZATION FOR TECHNIQUES AND WEAPONS (4.1.4)

Officers and other uniformed employees shall only use those techniques, intermediate weapons and firearms for which they have successfully completed department-approved training by a certified instructor. Any personnel who are unable to qualify, show proficiency, and/or pass written tests associated with weaponless control techniques, intermediate weapons or firearms will not be able to use those techniques or weapons until they successfully complete remedial training as determined by the instructor. A memo will be sent by the instructor to the Chief of Police, via the chain of command, for anyone who fails to pass remedial training. The Chief of Police or designee will determine the individual's employment status or any exceptions that may be made.

It is recognized that circumstances may arise in which officers are unable to or reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a lawful objective.

Officers utilizing weaponless control techniques, intermediate weapons or firearms should consider:

- A. The degree to which the application may be controlled given the level of resistance.
- B. Whether the person can comply with the direction or orders of the officer.
- C. Whether the person has been given sufficient opportunity to comply.

In no circumstance shall the application of any of the above be continued once the officer determines that compliance has been achieved.

300.8.2 UNAUTHORIZED WEAPONS AND OFFENSIVE DEVICES

The carrying of offensive devices/weapons such as saps, clubs, slappers, Billy clubs, sticks, brass knuckles, bats, weighted gloves, bludgeons, or any other offensive device not identified and approved by policy and procedure of this department is prohibited.

300.8.3 WEAPONS, AMMUNITION, AND DEVICES PERMITTED (4.3.1)

Only weapons, ammunition, and control devices which have been issued or authorized by the Chief of Police/designee may be used by department personnel in the performance of their duties. This shall apply to weapons and ammunition carried both on duty and during extra-duty assignments. Specific details regarding weapons, ammunition, and control devices will be covered in their respective policies where applicable.

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300.9 REPORTING THE USE OF FORCE/RESPONSE TO RESISTANCE (4.2.1; 4.2.2)

At a minimum, a written report will be submitted any time an employee:

- A. Discharges a firearm, for other than training or recreational purposes (does not include the humane killing of an injured animal);
- B. Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
- C. Applies force through the use of lethal or less lethal weapons; or
- D. Applies weaponless physical force at a level as described in the definition of force above.

The report shall document completely and accurately the factors perceived at the time of the incident and why it is believed the response to resistance was reasonable under the circumstances. The report should be completed, depending on the nature of the incident, prior to the end of shift unless the delay is authorized by a supervisor. Incidents where the actions of an employee resulted in, or is alleged to have resulted in the death of another person will be handled according to the procedures described in Policy 310 Officer Involved Shooting/Critical Incidents.

Each reported use of force shall receive an administrative review.

To collect data for purposes of training, resource allocation, analysis and related purposes, the department may require the completion of additional reporting, as specified in department policy, procedure or law. Data collected will be used for administrative reviews and an annual analysis that can contribute to the creation of safer strategies for employees and citizens, improvements in City/department policies and procedures, and the identification of training needs.

300.9.1 NOTIFICATION TO SUPERVISORS (4.2.2)

Supervisory notification shall be made as soon as practicable following the application of force requiring a written report.

300.10 RENDERING MEDICAL AID (4.1.5)

Medical aid will be rendered as quickly as reasonably possible following any law enforcement action in which injuries have been sustained or reported by the subject. Additionally, any individual who has been exposed to chemical agents such as OC spray or tear gas, or who was rendered unconscious or exhibiting signs of physical distress after an encounter shall be continuously monitored until the individual can be assessed by medical personnel. Medical assistance may consist of increased observation to detect changes in condition, flushing chemical agents from the eyes, or examination by fire personnel, paramedics, or hospital staff.

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300.11 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force requiring supervisor notifications, the supervisor is expected to:

- A. Obtain the basic facts from the involved officers.
- B. Ensure that any injured parties are examined and treated.
- C. When possible, separately interview the subject upon whom force was applied. The interview should be recorded when practicable and allowed by law. If this interview is conducted without the person having voluntarily waived Miranda rights, the following shall apply:
 - 1. The report should indicate the content of the interview was obtained for administrative purposes and that the subject did not voluntarily waive Miranda rights prior to making the documented statements.
 - 2. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- D. Once any initial medical assessment has been completed and/or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- E. Identify any witnesses not already included in related reports.
- F. Review all related reports, audio and video recordings and Blue Team entries.
- G. Ensure all body worn camera video and patrol car video is properly tagged and retained for criminal and civil litigation purposes.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit and document the findings in an applicable report(s).

300.11.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall complete an administrative review of each use of force/response to resistance report, to include associated video and Blue Team entries, by any employee within the chain of command to ensure compliance with this policy. The Watch Commander should ensure that any follow-up actions are completed to include, but not limited to, recommendations for policy revisions and /or training issues.

300.11.2 ADMINISTRATIVE LEAVE REQUIRED (4.2.3)

Any employee whose actions resulted in or are alleged to have resulted in the death or serious physical injury of another person will be removed from their operational assignment and placed on administrative leave pending an administrative review.

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300.12 ANNUAL ANALYSIS (4.2.4)

Annually the department will prepare an analysis of its use of force/response to resistance activities, policies and practices. The analysis report shall be completed by March 31st. The analysis should identify the following:

- A. Date and time of incidents;
- B. Types of encounters resulting in force;
- C. Trends or patterns related to race, age, and gender of subjects involved;
- D. Trends or patterns resulting in injury to any person including employees; and
- E. Impact of findings on policies, practices, equipment, and training.

300.13 TRAINING (4.3.3)

At least annually, all agency personnel authorized to carry lethal and less lethal weapons are required to receive in-service training on the agency's use of force policies and demonstrate proficiency with all approved lethal weapons and electronic controlled weapons authorized for use.

At least annually officers will receive P.O.S.T. approved training on de-escalation.

In-service training for other less lethal weapons and weaponless control techniques shall occur at least biennially.

Instruction should include confirmation of employee understanding of legal implications and requirements regarding use of force, weapons specific operating and care procedures, documentation and reporting procedures, and obligations following the use of force.

When possible training should be designed to simulate actual shooting situations and conditions; and enhance officers' discretion and judgement in using less-lethal and deadly force in accordance with this policy.

The training is to be monitored by a certified weapons and tactics instructor and maintained by the Training and Recruiting Unit.

All employees who fail to qualify or meet minimum standards will be required to complete remedial training as designated by the Training and Recruitment Unit before resuming official duties.

300.13.1 CHOKE HOLD AND LVNR TRAINING

All affected employees shall receive documented initial and annual training on choke holds and Lateral Vascular Neck Restraints including:

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- A. A clear explanation of each hold;
- B. A review of this policy;
- C. Clear instruction stressing that the use of each hold is prohibited unless deadly force is justified, and the hold is the only reasonable option available at the time to stop the threat.

All training will be documented and preserved by the Training and Recruitment Unit.