

DOUGLAS COUNTY SHERIFF'S OFFICE		Policy and Procedure
Specific Policies		P&P-B-100
Physical Force / Deadly Physical Force		
Effective Date: 05-28-19 Supersedes: 04-01-19	Approval: Sheriff	Number of Pages: 11
References: 18-1-703, 18-1-707, 18-1-901, 18-8-802, 18-8-804, 25-1-310, 27-10-105 CRS Tennessee v. Garner (US Supreme Court)	Reevaluation Date: Annually	Standards: CALEA 1.2.2, 1.3.1, 1.3.2, 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.12, 1.3.13, 41.2.3 ACA 4-ALDF-2B-01, 2B-04, 2B-07, 2B-08, 7B-10, 7B-10-1, 7B-16

I. PURPOSE

To provide sworn members with guidelines in the use of force, in the reporting of the use of force, and in post-incident support in trauma situations.

II. POLICY

Members are authorized to use the necessary physical force and deadly physical force only when justified and legally appropriate. <1.2.2><1.3.1><1.3.4> When physical force is used, members are required to report the use of such force. A supervisor should respond to the scene if available when an application(s) of force are utilized. The supervisor should conduct an inquiry if needed or required due to the circumstances of the use of force. <2B-01><2B-04> <2B-08>

This policy is for Office use only and does not apply in any criminal or civil proceeding. The Office policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Only violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

The value of human life is immeasurable in our society. Peace officers have been delegated the responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection of property must at all times be subservient to the protection of life. The officer's responsibility for protecting life must include his own.

It is the policy of this Office that members should never use more force than is reasonably necessary to protect life and property and to affect an arrest. <1.3.1><2B-08> Deputies shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force. Whenever possible and when such delay will not compromise the safety of the deputy or another, and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, a deputy shall allow an individual time and opportunity to submit to verbal commands before force is used.

Sworn deputies shall successfully complete in-service training annually in the use of physical force, to include arrest control, self-defense techniques, de-escalation techniques and use of force reporting requirements. <1.3.12> <7B-10><7B-10-1><7B-16>

III. DEFINITIONS

Bodily Injury

Physical pain, illness, or any impairment of physical or mental condition. 18-1-901(3)(c) C.R.S.

Deadly Physical Force

Force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death. 18-1-901(3)(d) C.R.S. <1.3.2>

Less Lethal Force

Any force, action, or weapon, which produces a result that is necessary to control the actions of another and does not involve the use of deadly physical force. <1.3.4>

Serious Bodily Injury

Bodily injury which involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body. 18-1-901(3)(p) C.R.S. <1.3.2>

Reasonable Belief

Belief that a person has committed an offense means a reasonable belief in facts or circumstances which, if true, would in law constitute an offense. 18-1-707(4) C.R.S. <1.3.2>

Choke Hold

A method by which a person holds another person by putting his or her arm around the other person's neck with sufficient pressure to make breathing difficult or impossible and includes, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.

Lateral Vascular Neck Restraint (LVNR)

A method by which a person holds another person by putting his or her arm around the other person's neck with sufficient pressure to occlude the vascular system that supplies and drains blood from the brain. When this restraint is applied there is no pain involved and the subject can breathe and talk.

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.

IV. USE OF FORCE <1.2.2><1.3.4>

When de-escalation techniques are not effective or appropriate, deputies 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. Use of force by agency members in addition to statutory justification of the use of force extended to citizens, members may use 'reasonable and appropriate physical force' to:

- A. Maintain order and discipline in a detention or correctional institution. 18-1-703(l)(b) C.R.S.
- B. To effect an arrest or prevent the escape of an arrested person, unless the member knows that the arrest was unauthorized. 18-1-707(1)(a) C.R.S.
- C. To defend the member or a third person from what he reasonably believes to be the use or imminent use of physical force, while effecting or attempting to effect an arrest, or while preventing or attempting to prevent an escape. 18-1-707(1)(b) C.R.S.
- D. To take a person into protective custody for mental health or intoxicated conditions. 27-65-101 C.R.S. <2B-01>
- E. To bring an unlawful situation safely and effectively under control.

The use of physical force includes:

- 1. Use of arrest control or pain compliance techniques, not to include control holds for directing and guiding compliant individuals.<1.3.6d>
- 2. Use of Electric Restraint Devices (ERD). <1.3.4>
- 3. Use of less lethal weaponry. <1.3.4><1.3.6c>
- 4. Use of oleoresin capsicum (OC). <1.3.4>
- 5. Use of the Tactical Vehicle Intervention Technique (TVI).
- 6. Use of the baton. <1.3.4>
- 7. The intentional or accidental discharge of a firearm (except during training and recreational shooting). <1.3.6a><1.3.6c>
- 8. Use of a canine, when the use results in an injury.
- 9. Use of water hoses in riots or detention environments.
- 10. Any incident that results in a bodily injury. <1.3.6b>
- 11. Any use of "choke holds" or LVNR. <1.3.6d>

V. USE OF DEADLY PHYSICAL FORCE <1.2.2><1.3.2><1.3.6c>

18-1-707(2) C.R.S. regulates the use of deadly physical force in making an arrest or preventing an escape. In accordance with the statutory justifications, a member is justified in using deadly physical force in the following circumstances:

- A. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.
- B. To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:
 - 1. Has committed or attempted to commit a felony involving the use of a deadly weapon.
 - 2. Is attempting to escape by the use of a deadly weapon; or,

3. Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.
- C. A guard or peace officer employed in a detention facility is justified:
1. In using deadly physical force when he reasonably believes it is necessary to prevent the escape of a prisoner convicted of, charged with, or held for a felony, or confined under the maximum-security rules of any detention facility as such facility is defined in subsection (9) of 18-1-707 C.R.S.
 2. In using reasonable and appropriate physical force, but not deadly physical force, in all other circumstances when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner from a detention facility.
- D. *Tennessee v. Garner and Graham v. Connor*
The Fourth Amendment prohibits the unreasonable use of deadly force to seize citizens. In deciding *Tennessee v. Garner* and *Graham v. Connor*, the Supreme Court ruled, “use of deadly force to prevent escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable.” The Court pronounced that “deadly force” can be used when (1) the officer has probable cause to believe that the suspect poses a threat of serious physical harm to the officer or others, the suspect uses a weapon to threaten the officer, or there is probable cause to believe that the suspect committed a crime involving the infliction or threatened infliction of serious physical harm; (2) it is necessary to prevent escape; and if where feasible, (3) some warning has been given. <2B-01><2B-08>

VI. GUIDELINES FOR USE OF FORCE

- A. Members shall not fire their weapons to kill, but rather, to stop and incapacitate an assailant from completing an act requiring the use of deadly physical force. For maximum stopping effectiveness and minimal danger to innocent bystanders, the officer should shoot at the center of mass of the target provided.
- B. Members are strictly prohibited from discharging a firearm as a ‘warning’ shot. <1.3.3>
- C. Members shall not fire at moving or fleeing vehicles, unless that vehicle is itself being used as a deadly weapon, or if any occupant of the vehicle is using a deadly weapon against any person. In such circumstances, members must attempt to target only the person using the weapon. <41.2.3ab>
- D. Members may use deadly physical force on any animal that presents serious and imminent danger to the member or others.
- E. Members may use deadly physical force to destroy any animal that appears to be suffering from an apparent fatal wound or sickness. The following must apply:
 1. If the animal is domesticated, a reasonable attempt to locate the owner must be made prior to destroying the animal, or;

2. If the animal is classified as wildlife, the animal may be destroyed without specific prior notification of the Division of Wildlife.
- F. Sworn members will not surrender their firearms to anyone who may be holding a hostage or is a suspect of criminal activity.
- G. Members will not employ “choke holds” except as allowed by CRS 18-1-707(2.5). Use of the LVNR technique is only authorized under the same circumstances as outlined in CRS 18-1-707(2.5) for “choke holds”.
- H. Any member using force that results in death or serious bodily injury shall be placed on administrative leave with pay pending a review of the incident. <1.3.8>
- I. Before making statements other than an initial Public Safety Statement in an investigation concerning use of deadly physical force, members may wish to secure legal representation and/or confer with a psychologist or their clergy person.**

VII. PROVIDING MEDICAL AID AFTER USE OF FORCE <1.3.5>

- A. It is the Sheriff’s Office policy to render reasonable medical aid to any person after the use of lethal, less-lethal, or physical force.
- B. Medical aid will be rendered to injured persons after threats of violence to the deputy or others have ceased.
- C. Any deputy who may have caused injury by lethal force, after the immediate threat has ceased and it is safe to do so, may approach the suspect to determine if life saving measures and/or appropriate medical aid should be initiated. Should the deputy determine immediate medical aid should be rendered, or is not absolutely sure death has occurred, the deputy will notify responding medical units, make the scene safe, and provide appropriate medical first aid to the suspect.
- D. For the rendering of medical aid due to the use of less-lethal weapons, see P&P-B-107 *Use of Authorized Less-Lethal Weapons*.

VIII. REPORTING USE OF FORCE

- A. Members will immediately report to a supervisor, both verbally and later in writing by their shift's end, all circumstances involving the use of force as defined in sections IV and V of this policy. <1.3.6bcd><2B-07>
- B. The on-duty supervisor should respond to the scene of any reported application of force and conduct an inquiry if it is deemed necessary and/or required by law and or office policy. The supervisor will report their findings as instructed in Professional Standards SOP A-905. <2B-07>
- C. Members will report as soon as possible to a supervisor, both verbally and later in

writing by their shift's end, any discharge of a firearm for other than training or recreational shooting (i.e. hunting, sports competitions).

If the member has to discharge a firearm to kill an animal, then the following reporting requirements shall be followed: <1.3.6a>

1. If the animal that is killed by the deputy is killed because it is a danger to citizens, or is a domesticated animal such as a dog, horse, cow, etc., then the deputy shall verbally report the incident to his/her immediate supervisor as soon as practical, and in writing with an incident report by shift's end.
 2. If the animal is considered wildlife, and is killed because it is wounded, a CAD notation with appropriate information will serve as documentation of the incident.
- D. If the member who is involved in any use of force, is hospitalized, fatally injured, or incapable of filing the report required, the on-duty supervisor is responsible for filing as complete a report as soon as possible pending further investigation.
- E. Excessive physical force shall be presumed when a peace officer continues to apply physical force, in excess of the force permitted by Section 18-1-707 C.R.S., to a person who has been rendered incapable of resisting arrest. The use of such excessive physical force shall be reported in accordance with this section of the policy manual.
- F. 18-8-802(1)(a) C.R.S. A peace officer who, in the pursuance of such officer's law enforcement duties, witnesses another peace officer, in the pursuance of such other peace 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, use physical force which exceeds the degree of physical force permitted pursuant to section 18-1-707, must report such use of force to such officer's immediate supervisor, or to Internal Affairs immediately.
- G. Failure to report such use of force by another peace officer may result in subsequent criminal charges or discipline. Any peace officer that knowingly makes a materially false statement, which the officer believes not to be true in reporting the use of physical force, may be subjected to criminal charges or discipline.

IX. DISPLAY OF FIREARM

- A. The policy of this Office is that members shall not draw their firearms unless there is a likelihood of danger to the officer or other persons. This order shall not be construed in its most narrow sense and is not intended to include the drawing of weapons on an approved range.
- B Unless authorized by other general orders, personnel shall only draw or otherwise display their firearms when the suspect is armed with a deadly weapon, they are arresting or attempting to arrest any person who they believe is about to commit, or is in the process of committing, or who has recently committed a felonious crime, or when entering a structure, area, or approaching a vehicle, or any situation in which

there is likelihood of danger to the officer or other people.

- C. The introduction or use of firearms within a detention facility (except in the sally port) will only occur in the most extreme circumstances. Only personnel who are authorized by the Sheriff, Undersheriff, chief deputies, or the Detention Division captain may make such introduction or use. <2B-04><2B-08>
- D. A member shall report verbally to the member's immediate supervisor, any incident involving an on or off-duty member intentionally aiming a firearm at another person (not in the performance of their official duties). The supervisor will assess the circumstances of the incident and will take appropriate actions to include documentation and staff notifications if necessary.

X. DISCHARGE OF A FIREARM

- A. A member must report as soon as possible the discharge (intentional or accidental/negligent) of any firearm (including less-lethal firearms), which occurs on- or off-duty, to their immediate supervisor or on-duty supervisor. Discharges that occur during approved training or recreational sporting events where no injury, death or property damage occurs do not require reporting. <2B-04><2B-07>

When a discharge occurs, members are required to check the welfare of possible victims and render appropriate assistance if applicable. The following procedures will occur if a discharge occurs (exemptions excluded):

1. If the discharge occurred while on duty, the immediate supervisor of the member involved will investigate the incident. If off duty, then the on-duty supervisor will investigate.
2. After the initial investigation, the supervisor will contact the on-duty or on call Commander.
3. If the discharge has resulted in any personal injury the on-duty division captain or lieutenant will immediately notify the on-call Commander who will make other command notifications. The Sheriff, Undersheriff and chief deputies, will decide whether the Use of Force Response Team should also investigate the incident.
4. If no personal injury has occurred as a result of a firearm being discharged, the Sheriff, Undersheriff and chief deputies will be notified (staff page) immediately and copies of reports must be forwarded within ten hours from the time the supervisor first had knowledge of the incident. This applies to the initial reports only.
5. After conducting a thorough investigation of the circumstances surrounding the discharge of the firearm, the assigned office staff members shall submit a detailed report of the results of the investigation to the Sheriff.
6. 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 disciplinary action which may be called for.
7. Supervisory personnel may obtain the firearm from the member for testing or evaluation purposes. Unless suspended, a member shall have use of an Office

replacement firearm until the member's firearm is returned.

8. Members discharging their firearm to kill a gravely disabled animal will advise their supervisor as soon as possible after the incident. Deputies will make sure to follow the reporting requirements in relation to documenting the killing of an animal, see paragraph VIII, section C above. <1.3.6a> No investigation by the supervisor or Internal Affairs is required unless the circumstances of the incident warrant it.

XI. USE OF FORCE REVIEW <1.3.7>

- A. Any member using force or witnessing the use of force will complete a report by the end of their tour of duty and submit reports to the on-duty supervisor. In the event a member is physically unable to complete a report, it shall become the responsibility of the member's supervisor. The supervisor shall ensure that all members involved submit reports. The Blueteam report will be completed by the on-duty supervisor and submitted through the chain of command to the division captain and chief deputy.
- B. The division captain and chief deputy will review and make recommendations in reference to situations involving the use of force that do not involve serious bodily injury or death.
- C. The division captain and chief deputy will focus on three major factors in its investigation:
 1. The violation of any criminal law that could result in prosecution.
 2. The violation of any agency policies or procedures that could result in disciplinary proceedings.
 3. Protecting the rights of any involved members.
- D. If the investigation indicates a possible violation of law or violation of Office policy and procedure by the involved member, or if at any point it is deemed that the member may be in legal or civil jeopardy, the team will advise the member and start an internal investigation.
- E. Once the review is complete the use of force report will be sent to the Undersheriff and Sheriff for review. The Sheriff will send the report to Professional Standards for completion. Professional Standards will review all reports and assign a tracking number.
- F. The Internal Affairs commander will analyze, prepare and submit to the Sheriff an annual report on all incidents of use of force and will recommend changes in policy when indicated by use of force trends. <1.3.13>

XII. USE OF FORCE RESPONSE TEAM: OFFICER INVOLVED USE OF DEADLY PHYSICAL FORCE

SB 15-219 requires each law enforcement agency to develop protocols for participating in a multi-agency team involving another law enforcement agency in the investigation of

a peace officer-involved shooting. The Office participates in the use of a Use of Force Response Team. The decision to use a Use of Force Team or another Law Enforcement agency to assist in the investigation will be initiated at the discretion of the Sheriff, Undersheriff or a Chief Deputy.

XIII. IMMEDIATE RESPONSIBILITIES OF INVOLVED MEMBERS

Members of the Office who are on-scene and involved in the incident have the following immediate responsibilities:

- A. Notify Dispatch of the location and nature of the situation. Request emergency medical assistance, additional patrol units and supervisory response as appropriate.
- B. As soon as safety allows, render life saving assistance to anyone needing it. <1.3.5>
- C. The scene must be immediately secured with a perimeter of sufficient distance away to safeguard evidence. As soon as manpower allows, an inner and outer perimeter should be established. Access to the inner perimeter must be very tightly controlled.
- D. In the event that there are no other officers present that can give an adequate overview, the involved member may be required to give a brief Public Safety Statement.
- E. When not needed for life saving efforts, entry by fire or other rescue personnel should be restricted to the absolute minimum required.
- F. Witnesses should be separated and kept at the scene. Ideally, keep the witnesses within the outer perimeter to minimize their exposure to media, other officers, and passers-by.
- G. No items shall be moved inside the scene or removed from the scene without the approval of the Use of Force Response Team and the criminalistics' laboratory unless absolutely necessary for public or officer safety or for preservation of evidence.
- H. If at all possible, have a deputy photograph the scene from all angles right away. This may be the best evidence later of what the scene looked like immediately after the fact.
- I. The physical and psychological well being of the involved officer is an important consideration. Without discussing the facts of the case, other officers should offer emotional support. To avoid cross-contamination, physical contact with persons who may have fired weapons should be avoided.

XIV. SUPERVISOR RESPONSIBILITIES

- A. The ranking supervisor will ascertain that responding officers have rendered aid as needed, secured the crime scene to include an inner and outer perimeter and identified and separate all witnesses. Involved individuals and witnesses will be kept at the

scene until directed by an executive officer, investigations, or the Use of Force Response Team.

- B. If necessary, the on-scene supervisor may administratively order any officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects such as:
 - 1. If you discharged your firearm, if so in what direction, where were you and how many times do you believe you fired.
 - 2. If anyone is injured that you know of or are there witnesses.
 - 3. Are there any outstanding suspects, their description, and did they fire at you and from where.
 - 4. Are there any weapons or evidence that needs to be secured / protected, if so where are they.
- C. Providing immediate on-scene support to involved officers is very important. Supervisors and deputies who respond to a critical incident scene should express genuine concern for the member's emotional and physical well-being. Other than supervisors who elicit a Public Safety Statement, others should avoid discussing the specific incident with the member and should not verbalize their opinions concerning justifications of actions, nor discuss the incident with any unauthorized person.
- D. Supervisors are responsible for dispelling any rumors by communicating to their subordinates through roll calls or special member meetings. Facts that can be released concerning the incident and the investigation should be released at this time.

XV. CHIEF DEPUTY RESPONSIBILITIES

- A. The chief deputy will be responsible for ensuring that the involved member has the opportunity to be debriefed by a psychologist before and/or after the Use of Force Response Team interviews the member, after the initial Public Safety Statement. Most likely the involved member will be put on administrative leave pending the Use of Force Response Team interview and assessment of fitness for duty by Professional Standards.
- B. The chief deputies will appoint an agency representative to assist the member and his family through the crisis period. The representative will establish an open line of communication with the family to answer questions, dispel rumors and see to the immediate needs of the family. If the deputy is hospitalized, arrangements shall be made to transport the family to the hospital.
- C. Additional administrative leave with pay may be appropriate in matters of post-incident trauma.

XVI. INTERNAL AFFAIRS RESPONSIBILITIES

- A. The Internal Affairs Section or designee shall arrange a debriefing for all involved personnel within the agency.

- B. The Internal Affairs commander will respond to the scene with replacement weapons and duty gear for involved members if requested by an executive officer or the investigations unit.

XVII. PROFESSIONAL CRITICAL INCIDENT DEBRIEFINGS

The physical and mental health of Sheriff's Office employees is very important. Considering this and the sometimes very difficult nature of law enforcement, there may be times that employees are involved in on-duty life-threatening situations or other on-duty incidents that cause severe emotional distress.

In those instances, affected employees may be required to visit an Office-designated mental health professional for a debriefing of the critical incident. A supervisor or command officer who believes that such action is necessary will contact the Professional Standards commander, who will arrange for the debriefing and notify the employee. This is intended as a positive and helpful resource for the affected employee so that they may better deal with the difficult nature of the serious incident.

Group debriefings may also be held at the direction of the command staff.

By Order of the Sheriff