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## 105.00 FORCE RELATED POLICIES

REVISED: 01/27/2019

PAGE: 1 OF 9

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### 105.01 USE OF FORCE POLICY

#### (1) PURPOSE:

The Denver Police Department's objective is to deliver high quality public safety services. The department recognizes the value and sanctity of all human life and is committed to respecting and protecting the dignity, safety, and civil rights of community members, including the right to be free from inappropriate force.

Officers may, at times, be required to make forcible arrests, defend themselves or others, and overcome resistance. The department's goal for the protection of both officers and the community is that officers should attempt to use non-force alternatives, including de-escalation, when time and circumstances permit. When needed, officers must use only the amount of force reasonable and necessary under the totality of the circumstances to safely accomplish a lawful purpose.

The use of force, especially force likely to result in serious bodily injury or death, is a serious action. When deciding whether to use force, and in the application of force, officers will utilize the decision-making model and department policy. The authority to use force is an extraordinary power that must never be misused or abused.

Except for certain definitions, this policy does not reference specific Colorado state statutes or federal law, and instead details force parameters authorized by the Denver Police Department. This policy complies with or exceeds state and federal law requirements.

#### (2) DEFINITIONS:

**Decision Making Model:** Department personnel are guided by the DPD Decision Making Model referenced in OMS 101.01 and must ensure that any force they use is reasonable and necessary under the totality of the circumstances. The following definitions apply specifically to the use of force policy, see OMS 101.01 for a full description:

**Authority:** The legal authority or mandate to act.

**Reasonable:** Actions should be generally consistent with what a trained officer would do under similar circumstances.

**Necessary:** The intended action is required based on the circumstances and will only consist of the amount of force needed to safely accomplish a lawful purpose.

**De-Escalation:** Actions or verbal/non-verbal communication during a potential force encounter used to stabilize the situation and/or reduce the immediacy of the threat, so that more time, options, and resources are available for resolution without the use of force or with a reduced type of force, or reducing or ending a use of force after a resistance or threat has ceased or diminished.

**Excited Delirium:** A medical emergency in which a person develops extreme agitation, aggressiveness, overheating, and exceptional strength that cannot be managed by routine physical or medical techniques. This type of extreme exertion may result in sudden death.

**Hand Control (arrest control techniques):** Physical restraint (e.g., gripping, wristlocks, come-along holds, etc.) and non-impact pain compliance (i.e., joint manipulation and pressure point) techniques used to prevent or overcome resistance and/or assault to place someone in custody.

**Immediate Danger:** A situation in which an individual is taking direct action to cause death or serious bodily injury to an officer or third person.

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**Imminent Threat:** When an individual has the means and ability to cause death or serious bodily injury to an officer or third party at any given moment. Imminent threat is ready to take place, impending, likely to happen or at the point of happening.

**Inappropriate Force:** Any force that is not reasonable and necessary under the totality of the circumstances.

**Lethal Force:** The application of force by firearm or any other means reasonably likely to result in death under the totality of the circumstances, regardless of whether that force resulted in death.

**Patrol Dog:** A canine that is trained and utilized to locate criminal subjects and apprehend if necessary.

**Serious Bodily Injury:** Bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures (to include breaks or fractures of hard tissue such as bone, teeth, or cartilage), or burns of the second or third degree.

**Tactical and Control Options:** Physical actions or maneuvers that are designed to increase the likelihood of safely handling a potential use of force situation while attempting to reduce the need for force or the amount of force necessary. This may include:

- Command presence
- Advisements
- Warnings
- Verbal persuasion and commands
- Time, distance, and cover (withdrawing to a position more tactically secure or which allows greater distance to consider or deploy a greater variety of force options)

**Totality of the Circumstances:** All of the facts and circumstances an officer knew, or reasonably should have known, without mere conjecture or speculation, at the time of the use of force, based upon a continual assessment of the situation, however rapid. This includes, but is not limited to, the seriousness of the threat of injury posed to the officer or other persons, the seriousness of the crime in question, and the officer's use of de-escalation techniques and/or tactical and control options, all viewed from the perspective of a reasonable officer.

**Use of Force / Force:** The Denver Police Department's standard requires that officers must use only the amount of force reasonable and necessary under the totality of the circumstances to safely accomplish a lawful purpose. Reasonable and necessary force is an objective standard, viewed from the perspective of a reasonable officer on the scene, without the benefit of hindsight.

**(3) TYPES OF RESISTANCE:**

The following types of resistance represent ways in which an individual indicates unwillingness to comply with an officer's orders, physically obstructs an officer's attempt to gain compliance, or physically attacks an officer or others: The authorized force response to the behavior(s) and/or resistance(s) listed below are illustrated on the Resistance and Response Chart.

- a. Psychological Intimidation: Non-verbal cues in attitude, appearance, demeanor, or posture that indicate an unwillingness to cooperate or comply, or threaten an officer or other person.
- b. Verbal Non-Compliance: Verbal responses indicating an unwillingness to comply with an officer's directions, or threaten to injure a person without the present ability to carry out the threat.
- c. Passive Resistance: Physical actions that do not prevent an officer's attempt to exercise control of a person or place them in custody. For example, a person who remains in a limp or prone position.

*NOTE: Verbal Non-Compliance and Passive Resistance usually do not involve conduct sufficient to support criminal charges related to resistance. Charging DRMC 38-31 Interference with police*

*authority (a) and/or (c) may be appropriate, depending on the circumstances.*

- d. Defensive Resistance: Physical actions that attempt to prevent an officer's control, including flight or attempt to flee but do not involve attempts to harm the officer (includes "turtling," which involves a pronated individual pulling his or her arms and/or legs to their chest to prevent access and control by an officer).
- e. Active Aggression: An overt act or threat of an assault, coupled with the present ability to carry out the action, which reasonably indicates that an assault or injury to a person is likely.
- f. Aggravated Active Aggression: Lethal force encounter.

**(4) FORCE GUIDING PRINCIPLES:**

- a. Guidelines:
    - 1. Officers may be required to decisively intervene and/or use force.
    - 2. Officers will avoid demeanor and/or deliberate actions that precipitate the use of force. This includes tactical or strategic actions that intentionally jeopardize safety and/or hinder successful incident resolution.
    - 3. There are many reasons an individual may be unresponsive or resisting an arrest. It is possible that the individual's mental state may prevent him/her from comprehending the gravity of the situation, or he/she may not understand an officer's commands or actions, and it may not be a deliberate attempt to resist. If circumstances permit, officers should consider reasons why an individual is unresponsive and attempt to utilize tactics appropriate for a safe resolution.

A person's reasoning ability may be dramatically affected by several factors, including but not limited to:

      - Medical condition and/or mental impairment
      - Developmental disability and/or physical limitation
      - Language barrier
      - Drug/alcohol interaction and/or emotional crisis
  - b. Considerations:
    - 1. An officer's conduct or actions may influence the amount of force necessary in each situation.
    - 2. When reasonably possible:

Prior to using force, officers will identify themselves as a police officer, attempt to de-escalate, use tactical and control options, give commands to be followed, and afford the person a reasonable opportunity to comply. Utilizing these concepts and tactics can help officers maintain greater safety for themselves and others.
    - 3. When situations occur that involve an elevated risk of physical resistance or danger to officers, given time and circumstance, supervisors will respond to assist with successfully and safely resolving them.
    - 4. Force, or the threat of force, will not be used as a means of retaliation, punishment, or unlawful coercion.
    - 5. Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, can create anxiety for the community, and may result in an accidental discharge of the firearm.
      - An officer's decision to draw or exhibit a firearm will be based on the tactical situation and the officer's reasonable belief there are indicators of a substantial risk that the situation may escalate to the point where lethal force may be necessary.
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- When an officer has determined that the use of lethal force is not necessary, the officer will, as soon as practicable, holster his/her handgun or safely stow a long weapon.
- 6. Whenever an officer who is not CIT trained learns through his/her observations or otherwise that a person with whom the officer is dealing with may be mentally ill, developmentally disabled, or emotionally disturbed, the officer will, if circumstances reasonably permit, use de-escalation techniques and/or tactical and control options, and request that a CIT officer respond to the scene.
- c. **Inappropriate Force:**

The community expects, and the Denver Police Department requires, that its officers use only force that is reasonable and necessary under the totality of the circumstances.

  1. Force that is not reasonable and necessary under the totality of the circumstances will be deemed inappropriate force and officers will be subject to at a minimum, discipline for violation of any applicable department policies and/or rules and regulations, including but not necessarily limited to:
    - RR-305 Duty to Protect Prisoner
    - RR-306 Inappropriate Force
    - RR-310 Mistreatment of Prisoners/Suspects
  2. Duty to report:
    - a. An officer who witnesses inappropriate force by other law enforcement officers will report it immediately to a supervisory or command officer higher-ranking than the involved officer.
    - b. Failure to report inappropriate force is a violation of this Use of Force Policy and can be a violation of state law – CRS §18-8-802.
  3. Duty to intervene:

When reasonably possible, considering the totality of the circumstances, officers will act to intervene whenever they witness inappropriate force and/or mistreatment of arrestees, suspects, or other persons. Such action will include, but is not limited to, verbally intervening to stop the violation.
  4. Consultation with Internal Affairs Division:

Supervisors investigating a use of force incident with an indication of inappropriate force, or when an officer makes an allegation of inappropriate force, will contact the Internal Affairs Division for direction as soon as possible.

**(5) FACTORS TO CONSIDER IN DETERMINING WHETHER TO USE FORCE AND ITS APPLICATION:**

- a. Factors to consider include, but are not limited to:
    1. The opportunity to avoid (or reduce) the use of force necessary by attempting to safely use de-escalation techniques, the decision-making model, and/or tactical and control options.
    2. The severity of the crime under investigation.
    3. Whether the individual poses a threat to the safety of officer(s) or others.
    4. Whether the individual is actively resisting arrest or attempting to evade arrest by flight.
    5. Whether the individual has the means or capability to cause injury or death to an officer or another. This may include, but is not limited to, the individual's physical ability, size, age, strength, level of aggression, and any weapons in their immediate control.
    6. The proximity of weapons.
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7. Environmental factors.
  8. Presence of persons who are likely to interfere.
  9. Availability of cover officers/additional resources.
  10. Individual's demonstrated mental state.
  11. Whether a person is unresponsive and the reasons for that unresponsiveness.
  12. The availability of tactical options to avoid using force or to reduce the force necessary.
  - b. This policy does not require that an officer attempt to select or exhaust each option before moving to another type of force.
  - c. It is the expectation of this department that when an individual is under control, either through the application of physical restraint or the individual's compliance, only the amount of force necessary to maintain control will be used.
  - d. Force/control options: (See Resistance and Response Chart)
    1. 40 mm Launcher
    2. Baton / Impact tools (strikes)
    3. CEW/TASER
    4. Chemical Munitions (aerosol and gas munitions)
    5. Command Presence
    6. Hand Control
    7. Lethal Force
    8. OPN / Baton (arrest control / pain compliance)
    9. Patrol Dog
    10. PepperBall® System
    11. Personal Body Weapons (hands, knees, elbows, feet)
    12. RIPP™ Restraint System
    13. Voice
  - e. Breathing impairment:
    1. Unless engaged in a lethal force encounter, officers will not:
      - Apply direct pressure to an individual's trachea or airway with the intention to reduce the intake of air (e.g., apply a chokehold).
      - Apply direct pressure to an individual's neck with the intention to restrict or slow the blood flow within the carotid arteries (carotid compression technique).
    2. When body weight is used in an attempt to control an individual who is resisting, officers will immediately cease applying body weight to an individual's back, head, neck, or abdomen once the individual is restrained.
    3. As soon as possible after an individual has been handcuffed, and his/her actions no longer place officers at risk of imminent injury, the individual should be turned onto his/her side or allowed to sit up. Officers will make all reasonable efforts to ensure that the individual is not left in a prone position.
  - f. Deadly weapons:

When confronted by an individual armed with a deadly weapon, including edged weapons, an officer will consider the totality of the circumstances, including:

    1. The individual's ability to carry out an immediate attack.
    2. The speed at which the incident/situation is evolving.
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3. The availability of force options that may be reasonable and necessary.
4. When reasonable for the safety of officers and other persons in the vicinity, the use of tactical and control options.

**(6) FORCE AND CONTROL OPTIONS – SEE OMS 105.02.**

**(7) LETHAL FORCE:**

Officers may use lethal force when reasonable and necessary under the totality of the circumstances to defend themselves or third person(s) from what they reasonably believe to be the use of, or an imminent use of, lethal force.

- a. When reasonably possible, before engaging in its use, officers will identify themselves as a police officer, give the command he/she wants followed, and state his/her intention to shoot or apply lethal force.
- b. Denver police officers may not use lethal force as described by CRS §18-1-707 (2)(b) solely to effect an arrest, or to prevent the escape of a person unless that lethal force is reasonable and necessary under the totality of the circumstances to defend themselves or a third person(s) from what they reasonably believe to be *immediate danger* to human life.
- c. The use of lethal force against a person who presents a danger only to themselves is prohibited.

**(8) DISCHARGE OF FIREARMS:**

- a. When authorized:

The discharge of firearms must comply with applicable policies and procedures. A Denver police officer may engage in the lawful use of firearms under the following conditions:

1. In lethal force situations in strict compliance with circumstances described in section 105.01 (7).
2. In accordance with OMS 104.38, to kill a dangerous animal or one that humane treatment requires its removal from further suffering and alternative methods of disposition are impractical. A homicide detective must be called out if an officer kills an animal under such circumstances.
3. To participate in authorized training.
4. To participate in any authorized competition or legitimate sporting activity.

- b. Prohibited discharge:

Officers will not discharge firearms under the following conditions:

1. At another person, unless the circumstances are in compliance with OMS 105.01 (7).
2. Against persons who present a danger only to themselves.
3. Where there is likelihood of serious injury to persons other than the person to be apprehended.
4. As a warning or to command the attention of an individual(s).
5. Solely to protect property.
6. At a moving vehicle, except as permitted in OMS 105.01 (9).

**(9) MOVING VEHICLES:**

- a. Officers will exercise good judgment and not move into or remain in the path of a moving vehicle. Being in the path of a moving vehicle will not be the sole reason for discharging a firearm at the vehicle or any occupant. An officer in the path of a vehicle will attempt to move to a position of safety rather than discharging a firearm at the vehicle or any occupant(s).
  - b. Occupant(s):  
Firearms will not be discharged at anyone in a moving or fleeing vehicle unless lethal force is
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being used by that person against a police officer or any other person present by means other than the moving vehicle.

c. Vehicles:

Firearms will not be discharged at a moving vehicle for the following reasons:

1. It may have very little effect on stopping the vehicle.
2. Inadvertently disabling the driver may result in an uncontrolled vehicle, and the likelihood of injury to occupants of the vehicle and/or bystanders may be increased when the vehicle is either out of control or shots are fired into the passenger compartment.

d. Vehicle Ramming Attack:

Firing at the driver of a moving vehicle or the moving vehicle itself when there is an apparent intent to inflict mass casualties may be reasonable and necessary.

**(10) STOPPED / STATIONARY HIGH-RISK VEHICLE CONTACTS:**

When reasonably possible, officers will use high-risk vehicle tactics after a pursuit or other high-risk vehicle stop or contact, and in such circumstances, are discouraged from immediately approaching a stopped/stationary vehicle. When circumstances permit, officers will use tactical control options to safely resolve the situation.

**(11) RESPONSIBILITY TO PROVIDE MEDICAL ATTENTION:**

- a. Officers are required to provide medical attention per OMS 116.06.
- b. Officers may not use physical force solely to stop a person from swallowing a substance or to retrieve evidence from the person's mouth. See OMS 116.06 (3).
- c. In-custody persons - general:
  1. Upon taking an individual into custody, arresting officers have the duty to exercise reasonable care for the arrestee's health and safety.
  2. Officers will advise responding medical personnel and personnel taking custody or having oversight of an arrestee/detainee, including at district stations, of:
    - Any observations that indicate the individual is possibly under the influence of alcohol, controlled substance(s), medical or emotional duress, suicidal, or displaying possible symptoms of excited delirium.
    - When the arrestee/detainee has been subjected to application of a less lethal weapon.
  3. Officers will advise personnel taking custody or having oversight of an arrestee/detainee, including at district stations, when medical personnel have evaluated the arrestee/detainee.
  4. Arrestees suffering from any illness, injury, or other condition that requires medical attention, including the ingestion of narcotics or other harmful substances, will be evaluated by medical personnel.
    - It is the policy of the Denver Sheriff Department to refuse custody of injured individuals, unless accompanied by reports indicating that they have been examined, treated, or have refused to submit to examination (or treatment) by medical personnel. Officers will notify detention personnel of the nature of force used when transferring custody of arrestees.
- d. Persons injured or claiming injury resulting from contact with a police officer:
  1. The involved officer will visually examine the person displaying or claiming injury, request medical attention, and immediately notify a supervisor whenever:
    - Injury results from force used by department personnel; or



- He/she is in contact with a person with obvious or alleged injuries who may claim they resulted from the contact with the officer; or
  - A person is subjected to a chemical agent, impact techniques, use of a CEW/TASER, PepperBall® system, or 40 mm launcher, or when restrained with a RIPP™ leg restraint.
2. Medical treatment at the scene is deemed the most appropriate response, though safety concerns may necessitate moving the individual to another location before treatment can occur. Medical personnel will determine whether further treatment is required.
  3. Only medical personnel will be allowed to remove probes from individuals shot with a CEW/TASER.

**(12) DEATH, INJURY WHERE DEATH IS LIKELY, OR SERIOUS BODILY INJURY FOLLOWING THE APPLICATION OF FORCE:**

Should an individual die, or suffer injury where death is likely, after a use of force or while in-custody of Denver police officers, the Major Crimes Division, the Internal Affairs Division, and other department entities will be notified per policy, and the scene will be processed as an in-custody death investigation – see OMS 301.14 (8).

- a. When serious bodily injury occurs, the supervisor investigating the use of force will notify the Internal Affairs Division.
- b. The Crisis Services Division will be notified and offer assistance.

**(13) USE OF FORCE REVIEW:**

The Internal Affairs Division reviews all use of force reports with the exception of cases examined by the Use of Force Review Board.

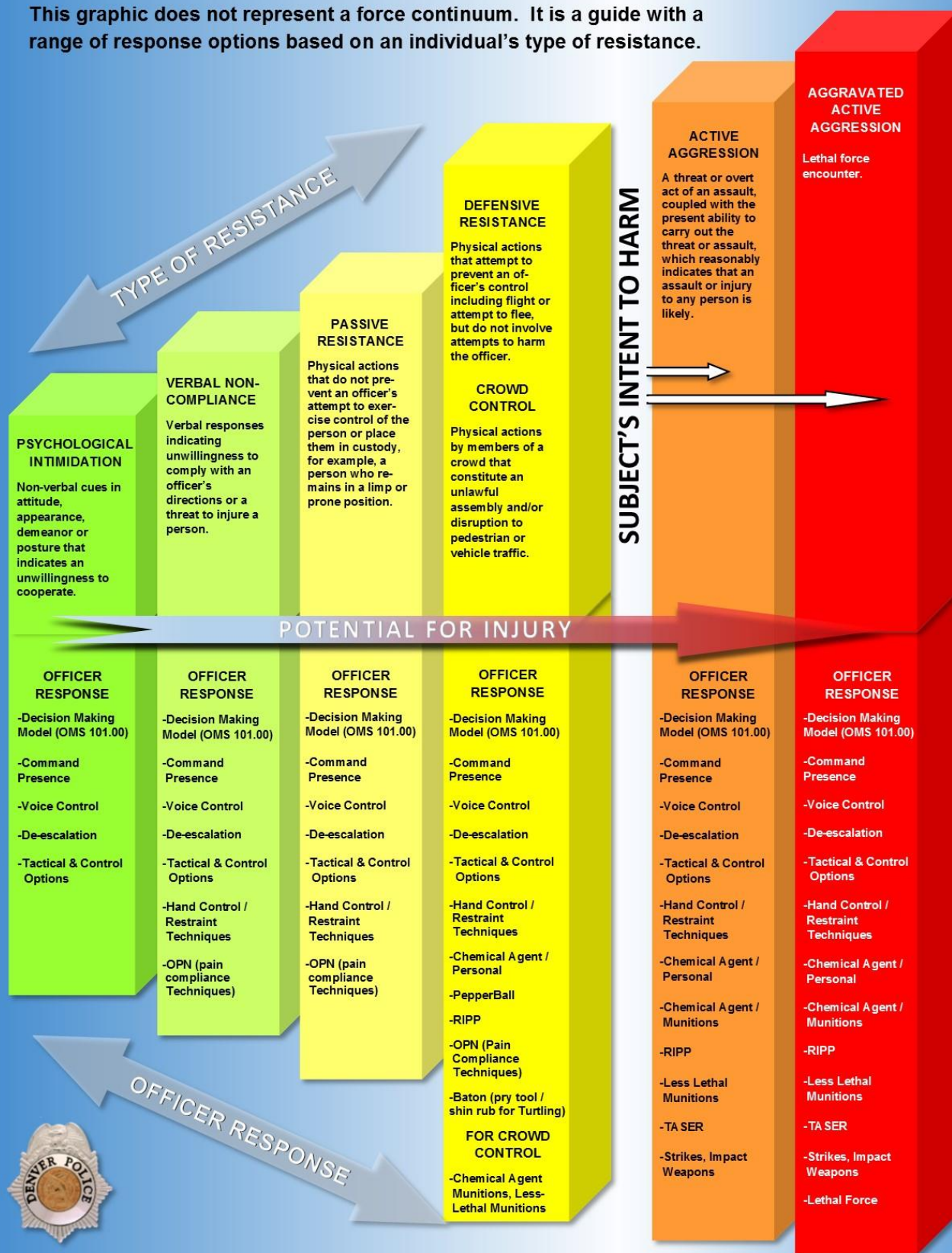
- Depending on the type of force employed or injuries sustained, a use of force incident may be subject to review by the Use of Force Review Board, the Tactics Review Board, the District Attorney's Office, or other independent agencies as required by policy.

**(14) RESISTANCE AND RESPONSE CHART – SEE NEXT PAGE.**

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This graphic does not represent a force continuum. It is a guide with a range of response options based on an individual's type of resistance.



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# OPERATIONS MANUAL

## DENVER POLICE DEPARTMENT



### 105.00 FORCE RELATED POLICIES

REVISED: 01/27/2019

PAGE: 1 OF 5

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#### 105.02 FORCE AND CONTROL OPTIONS

(1) **POLICY:**

In accordance with department policy and training, the Denver Police Department authorizes force and control options, including less lethal weapons. The use of less lethal weapons can in some situations avoid the need for greater amounts of force - including lethal force - may reduce injury, and may assist officers in protecting the public, themselves, and other officers. When applying force and control options, the initial application, and each subsequent application, must be individually reasonable and necessary under the totality of circumstances.

The DPD Arrest Control Techniques and Defensive Tactics (ACT) Manual is the guiding document for the most current methods and techniques of applying force. Regardless of any method or technique used, all force must be reasonable and necessary. There is neither a requirement, nor an expectation, that officers attempt to use or exhaust all force methods.

Force and control options designed and intended to be less lethal (in alphabetical order):

- 40 mm launcher
- Baton / Impact tools (strikes)
- CEW/TASER
- Chemical agents and munitions
- OPN / Baton (arrest control / pain compliance)
- PepperBall® system
- Personal body weapons (hands, knees, elbows, feet)
- RIPPTM leg restraint device

(2) **DEFINITIONS:**

**40 mm launcher:** Single round or multi-launcher that fires department approved and issued 40 mm specialty impact munitions (including 40 mm OC).

**Authorized user:** An officer trained and authorized by the department to use, handle, carry, and deploy the item referenced.

**Baton / Impact tools:** Authorized baton or OPN (when used as an impact tool) used to deliver strikes as a means of self-defense or the protection of others.

**CEW/TASER:** Conducted electrical weapon which uses an electrical signal to temporarily override the motor and sensory nervous system.

**Chemical agents and munitions:** Aerosol (duty belt carried) and gas munitions (fogger, grenade, PepperBall® system) used as a means of preventing or overcoming resistance, assault, or dispersal.

**Less lethal force:** Force application which meets an operational or tactical objective that is not intended to and has a reduced likelihood of causing death or serious bodily injury.

**Less lethal weapon:** A weapon (PepperBall® system, 40 mm launcher, CEW/TASER) which when used as designed and intended has less potential for causing death or serious bodily injury than police lethal weapons.

**Orcutt Police Nunchaku (OPN):** A device used for physical restraint through pain compliance and/or leverage, and self-defense through strikes and maintaining distance.

**PepperBall® system:** An air-powered launch device that deploys plastic sphere projectiles filled with

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powdered Oleoresin Capsicum (OC).

**Personal body weapons:** Anatomical weapons (hands, knees, elbows, feet, etc.) used to deliver strikes as a means of self-defense or in the protection of others.

**RIPP™ leg restraint device:** A device used to temporarily restrain and/or immobilize the legs and lower body of an individual.

**(3) GENERAL GUIDELINES – FORCE AND CONTROL OPTIONS:**

Officers will use less lethal force and control options in accordance with department training and policy. Listed as follows are general guidelines.

a. Baton / Impact tools:

1. In response to Defensive Resistance, the baton / impact tool may be used only to apply come along, escort, or pain compliance techniques. A person who remains non-violent will not be intentionally struck with a baton / impact tool.
2. The minimum type of resistance for the application of a baton / impact tool or any other tool as an impact device is Active Aggression.
  - The head and neck will not be intentionally struck with a baton / impact tool unless the officer is using lethal force per OMS 105.01 (7).
  - Officers must be able to articulate how the use of any device or object as an impact weapon, other than those authorized, was reasonable and necessary and in compliance with the Use of Force policy.
  - Firearms are not an appropriate impact weapon because of the inherent danger of an accidental discharge.

b. Chemical Agents and Munitions:

1. The minimum type of resistance for application of a chemical agent or munition is Defensive Resistance. Deployment of any chemical agent or munition requires that the officer be an authorized user for that item. Chemical agents and munitions may provide an effective force option and may be used in the following situations:
  - To prevent injury to an officer or a third person.
  - To ward off an attack from a canine or any other animal.
  - To subdue an individual who is threatening or attempting suicide.
  - Against an individual resisting and/or interfering with an arrest.
  - To quell rioting/disperse unlawful crowds.
  - Any situation where the officer can clearly articulate the need for deployment.
  - NOTE: This does not include the 40 mm OC round – see section (4)
2. The use of a chemical agent or munition for crowd/riot control will be in accordance with the DPD Crowd Management Manual.

c. OPN (arrest control / pain compliance):

1. The minimum type of resistance required for application of an OPN as an arrest control device is Verbal Non-Compliance.
2. Only authorized users will carry and/or deploy this device.

d. Personal body weapons:

The minimum type of resistance for the application of personal body weapons is Active Aggression. Officers must articulate why empty-handed control was or would have been ineffective and personal body weapons were used.

e. RIPP™ Leg Restraint Device:

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1. The RIPP™ leg restraint device is the only authorized system/method for immobilizing the legs and lower body of an individual. Only authorized users will carry and/or deploy this device. The RIPP™ leg restraint device is not to be attached to an arrestee's handcuffs and will be utilized and applied in accordance with the Arrest Control Manual.
2. The RIPP™ leg restraint device will only be used in situations where handcuffed individuals continue to be combative and still pose a threat to themselves or officers, or could cause significant damage to property, if not properly restrained.
3. After the RIPP™ leg restraint device is applied, officers will immediately roll the individual on his/her side and monitor them. If there are signs such as labored breathing and/or profuse sweating, officers should relax the tension of the leg restraint and/or consider removing the device. Once in a side-lying position, officers will not allow the individual to roll to a face down position.

**(4) LESS LETHAL WEAPONS - DEPLOYMENT:**

- a. Communication:
    1. When possible, officers and supervisors should strategize prior to deploying any less lethal weapon.
    2. When possible, officers should give clear and concise verbal commands to the individual prior to, during, and after the deployment of any less lethal weapon.
    3. Officers deploying a less lethal weapon usually will not perform any other duty, such as searching or handcuffing, until their less lethal weapon is safely holstered or stowed.
  - b. Restricted Areas:

Unless lethal force is reasonable and necessary, targeting the following areas with a less lethal weapon (point of aim) is prohibited:

    1. The head, eyes, throat, neck, breasts of a female, genitalia, or spinal column.
    2. At an open wound (when the officer has prior knowledge of the open wound).
  - c. General Prohibitions:
    1. Playful or malicious display, or intentional misuse of any less lethal weapon.
    2. To prevent an individual from swallowing evidence.
    3. Against any individual more susceptible to injury such as small children, disabled individuals, or the elderly, unless the officer can articulate the action(s) were reasonable and necessary under the totality of the circumstances.
    4. As a tool of punishment or unlawful coercion.
    5. Where its use will cause the individual to lose control of a motor vehicle unless officers can articulate compelling reasons.
    6. Against a pregnant female (when the officer has prior knowledge of the pregnancy).
    7. Against a handcuffed arrestee/detainee, unless the individual demonstrates an overt act of Aggravated Active Aggression and there was no reasonable alternative.
    8. To terminate a foot chase, unless the individual's actions rise to Active Aggression.  
NOTE: The PepperBall® system only requires Defensive Resistance.
  - d. 40 mm launcher:
    1. Acceptable uses of a 40 mm launcher include:
      - To incapacitate, safely control, or take into custody an individual whose conduct rises to Active Aggression. Its use may become necessary when other force options would be inappropriate or ineffective, and it is reasonable and necessary under the totality of the circumstances to avoid having to use lethal force; or
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- As less lethal intervention to prevent an officer or a third person from being seriously injured or killed; or
      - To incapacitate an individual who is threatening or attempting suicide.
    - 2. Preferred Point of Aim:  
The 40 mm launcher should be aimed at areas of the body with large muscle mass.
    - 3. Unless lethal force is reasonable and necessary, an officer will not intentionally deploy the 40 mm launcher from a range of less than five (5) feet.
  - e. CEW/TASER:
    - 1. Acceptable uses:
      - To incapacitate, safely control, or take into custody an individual whose conduct rises to Active Aggression; or
      - To incapacitate an individual who is threatening or attempting suicide.
    - 2. Preferred Point of Aim:
      - The CEW/TASER should be aimed lower center mass, just below the sternum.
      - Probe strikes to any restricted area will be specifically noted in the Use of Force Report (DPD 12) and deploying officers will detail circumstances in their written statement.
    - 3. Application:
      - When a CEW/TASER is used, officers will deploy the device for one energy cycle (the default length of an energy cycle is when the trigger is pressed and released) and officers will reassess the situation. When reassessing, subsequent and continual energy cycles may not be effective against an individual; officers may have to consider other force options.
      - When reasonably possible, individuals should be taken into custody while experiencing neuromuscular incapacitation.
      - The drive/contact stun technique is discouraged as it generally only produces pain compliance. If used, officers should wait a reasonable amount of time between applications to discern if compliance has been gained.
      - Only the minimum number of energy cycles necessary to place the individual into custody will be used.
    - 4. The CEW/TASER will not be used:
      - In any environment where an officer knows that a potentially flammable, volatile, or explosive material is present.
      - In any environment where an officer knows or should have known that the neuromuscular incapacitation could cause an injury more significant than intended.
  - f. PepperBall® system:
    - 1. Acceptable uses of the PepperBall® system may include:
      - To incapacitate, safely control, or take into custody an individual whose conduct rises to Defensive Resistance; or
      - When its use is likely to prevent an officer or a third person from being injured by an individual; or
      - To incapacitate an individual who is threatening or attempting suicide; or
      - When ordered by a field force commander or other command officer in crowd control or riot situations.
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2. Preferred Point of Aim:

The PepperBall® system should be aimed lower center mass, just below the sternum.

**(5) LESS LETHAL WEAPONS – AUTHORIZATION AND STORAGE:**

a. Authorization – PepperBall® system and 40 mm launcher:

Only authorized users will display, carry, or deploy a PepperBall® system or 40 mm launcher. Selection of officers will be based on the following criteria:

1. Officers must be selected by their commanding officer and approved by their division chief to carry and use a PepperBall® system or 40 mm launcher.
2. Officers must successfully complete designated instruction and periodic qualification conducted by authorized less lethal instructors. The Training Division maintains the training curriculum and list of authorized users. Authorized users can also be identified within TeleStaff.
3. Violations of this policy may result in officers being removed as an authorized user and possible disciplinary action.

b. Authorization – CEW/TASER:

1. Designated officers will be issued a CEW/TASER and will retain possession of the device for the duration of their division/district assignment. When issued a CEW/TASER, on-duty uniformed officers and officers working uniformed secondary employment are required to carry it on their person, in an approved holster.
2. At designated operational assignments, CEW/TASERs will be issued to authorized users by an armory officer or supervisor at the beginning of each shift and returned at the end of the officer's shift to an armory officer or a supervisor. When issued a CEW/TASER, uniformed officers are required to carry it on their person, in an approved holster.
3. Prior to going in service, officers should conduct a spark test of their CEW/TASER (without cartridge loaded) to ensure it is firing properly. If the device does not fire properly, officers will notify their supervisor and the item will be removed from field service.
4. Officers will periodically inspect the manufacture date of their CEW/TASER and expiration date of their CEW/TASER cartridges (displayed on the bottom of the device or cartridge). Equipment at expiration or past five (5) years of life will be removed from field service and returned to the Less Lethal Coordinator at the Firearms Unit.

c. Storage and Handling:

1. Except for CEW/TASERS, all departmental less lethal weapons not deployed in the field will be maintained in a police facility, in a locked cabinet or room designed specifically for the secure storage of less lethal weapons.
  2. When not being carried on an officer's person, the CEW/TASER will be stored in a secure manner. Officers are not authorized to carry the CEW/TASER in their non-police capacity.
  3. The inventory of less lethal weapons will be completed per OMS 504.04.
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# OPERATIONS MANUAL

DENVER POLICE DEPARTMENT



## 105.00 FORCE RELATED POLICIES

REVISED: 01/27/2019

PAGE: 1 OF 6

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### 105.03 REPORTING

#### (1) REQUIRED NOTIFICATION:

Officers will immediately report the following incidents to a supervisor or command officer:

a. Incidents involving a use of force:

*These items are reported on a Use of Force Report (DPD 12)*

1. An officer discharged a firearm other than in-training or for bona-fide recreational purpose.
2. An officer applies force through use of the following, regardless of whether an arrest is made, the individual dies, is injured, or complains of an injury:
  - 40 mm launcher
  - Any tool, object, or device used as an impact weapon
  - By any means reasonably likely to result in death under the totality of circumstances, regardless of whether the force, does in fact result in death.
  - Chemical agents and munitions
  - CEW/TASER
  - PepperBall® system
  - Patrol dog
  - Personal body weapons (hands, knees, elbows, feet)
  - Any vehicle pursuit that is terminated by forced-stop methods - See OMS 204.01.
3. An officer has an accidental discharge of a PepperBall® system, chemical agent or munition, 40 mm launcher, or CEW/TASER, other than in training, regardless if the discharge was in view of the public or if members of the public were affected.

b. Incidents NOT involving a use of force:

*These items are reported on an Injury While in Custody – Injury Prior to Arrest/Contact (DPD 12i)*

1. An individual claims injury, suffers an injury prior to arrest, or there is an injury/death while in custody and no force was used at any time during police contact.
2. A person is injured prior to arrest or contact, and circumstances indicate he/she is claiming or may claim the injury resulted from contact with an officer.
3. A person suffers a life-threatening injury or dies while in custody. See OMS 301.13 and OMS 301.14 (8).
4. An officer is assaulted, or an individual is charged with resistance and no force was used.
5. The RIPP™ leg restraint device was applied and no force was used.
6. An individual demonstrating symptoms of excited delirium was taken into custody and no force was used.

#### (2) SUPERVISORY INVESTIGATION:

a. Generally:

The supervisor or command officer will ensure that all sections of the operations manual and applicable Colorado Revised Statutes have been followed. The officer's supervisor or in his/her absence, another supervisor will respond to the scene and personally contact the officer

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immediately after the incident. The supervisor will conduct an independent and thorough investigation.

1. The supervisor will interview witnesses and suspects, collect evidence, take photographs when appropriate, and when the situation involves a use of force, prepare the Supervisor's Use of Force Cover Sheet (DPD 770), carefully articulating the facts of the incident.
  2. Make every reasonable effort to identify and preserve video and/or still photos that may contain evidence relevant to the investigation, and document actions taken to obtain and preserve the evidence and/or the instruments that contain such evidence - See OMS 104.58 Search and Seizure of Electronic Recording Devices.
  3. If BWC footage is available, see OMS 119.04.
  4. When investigating a use of force incident involving deployment of the CEW/TASER, the supervisor must recover and place into the Property Management Section the CEW/TASER probes and some identification confetti. Data from the CEW/TASER will be downloaded into a computer file and the results will be documented as part of the use of force investigation.
  5. Supervisors and command officers will not investigate use of force incidents in which they are personally involved. It is preferable though not mandatory that the incident be investigated by their commanding officer, or an officer of higher rank.
    - Personally involved means participation in the use of force, hands on and/or actively directing force while it was being used.
  6. If at any point during a use of force investigation a supervisor has evidence of a law violation or inappropriate force, or it is a potential high-profile incident, he/she will at the earliest reasonable time contact the Internal Affairs Division for direction.
  7. In all cases where serious bodily injury occurs the investigating supervisor will ensure notification of the Internal Affairs Division. The Internal Affairs Division will assess and determine if their immediate response is necessary.
  8. Procedures for processing juveniles involved in a resistance incident are detailed in OMS 401.02 (10).
  9. With authorization of the Chief of Police (or designee), the multiple use of chemical munitions in response to Defensive Resistance during large-scale events may be documented with a single use of force report.
  10. If the involved employee is a member of the Denver Sheriff Department (DSD), a sheriff supervisor will be requested via Denver 911 to respond to the scene and complete required DSD reports. Denver police officers will assist with witnesses and/or statements as requested; however, the reporting requirements will be the responsibility of DSD personnel and they will follow their policies and procedures. Lethal force incidents and deputy involved shootings will be investigated by the DPD Major Crimes Division and the Internal Affairs Division will be notified.
  11. Officers off-duty / officers working Secondary Employment:
    - a. Off-duty officers who become involved in any use of force situation must report the circumstances to an on-duty command or supervisory officer within the district of occurrence as soon as the situation is stabilized. If it occurred outside the City and County of Denver, off-duty officers will report the use of force to the appropriate local law enforcement agency and notify their chain of command.
    - b. Off-duty officers who are working police secondary employment and become involved in any use of force situation must report the circumstances via police radio to an on-duty command or supervisory officer within the district of
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- occurrence, or when applicable to a major event supervisor as soon as the situation is stabilized.
- c. An exception to reporting to an on-duty supervisor or command officer within the district of occurrence may be granted by the Chief of Police (or designee) for major events involving off-duty officers working secondary employment – police work. If an exception is granted, a supervisor or command officer working the event may fulfill the reporting requirements.
  - d. Supervisors or command officers who investigate any incident involving an officer engaged in secondary employment must verify in TeleStaff that the officer was approved for secondary employment and document the results in the Supervisor's Use of Force Cover Sheet (DPD 770).
- b. Required documentation:
1. Use of Force Report (DPD 12) – *completed by the primary involved officer, OR Injury While in Custody – Injury Prior to Arrest/Contact (DPD 12i) – completed by the supervisor.*
  2. Names and statements from all witnesses.
  3. Statements from all involved officers.
  4. Copy of the CAD report.
  5. Supervisor's Use of Force Cover Sheet (DPD 770) – *required only when reporting a use of force on a Use of Force Report (DPD 12).*
- c. Supervisor's Use of Force Cover Sheet (DPD 770):
- The investigating supervisor will complete this report, including:
1. Synopsis
    - Provide a brief and general description of the incident.
    - Describe the specific actions of each officer listed on the Use of Force report.
    - The brief synopsis should be no longer than one paragraph.
  2. Introduction

Explain the reasons for the contact to include the type of call or action (reasonable suspicion, probable cause, etc.).
  3. Investigation
    - Describe the supervisor's investigative actions to include contact with officers, witnesses, and suspect.
    - Describe the disposition of the suspect.
    - Review all statements for completeness.
    - Describe any evidence collected or observed.
    - Document activation of BWC and that it was reviewed. If it wasn't activated or reviewed, explain why.
    - Ensure a neighborhood survey was conducted.
    - Document any allegations of inappropriate force.
  4. Summary
    - Detail accusations and /or inconsistencies within statements and other evidence and provide supporting facts.
    - Articulate if injuries were consistent with the type, manner, and amount of force used.
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- The supervisor's summary will not include any opinion or determination as to whether the action(s) of the officer(s) were reasonable or necessary, within or outside the scope of policy, or a potential law violation.

5. Recommendations

Supervisors are responsible for assessing use of force incidents and making a recommendation when they believe an additional investigation is necessary. Upon making this determination, supervisors will check the appropriate box on the Supervisor's Use of Force Cover Sheet (DPD 770).

- Potential law violations or inappropriate force:

If during the supervisor's investigation a potential law violation or inappropriate force is revealed, he/she will immediately contact the Internal Affairs Division for direction. If IAD does not initiate an immediate investigation the supervisor will recommend further investigation by checking the appropriate box on the Supervisor's Use of Force Cover Sheet (DPD 770).

- Other potential policy violations:

If the supervisor's completed investigation reveals potential policy violations, he/she may contact the Internal Affairs Division for direction. In such cases supervisors will also recommend that the incident be further investigated by the Internal Affairs Division by checking the appropriate box on the Supervisor's Use of Force Cover Sheet (DPD 770).

- Incomplete Information:

If following his/her completed investigation the investigating supervisor has other concerns, including but not limited to incomplete information or evidence, he/she may contact the Internal Affairs Division for direction. Supervisors may also recommend that the incident be further investigated by the Internal Affairs Division by checking the appropriate box on the Supervisor's Use of Force Cover Sheet (DPD 770).

d. Counseling:

When indicated and appropriate, supervisors will counsel officers in methods to better handle future situations to avoid or minimize the use of force.

**(3) OFFICER RESPONSIBILITIES:**

The primary involved officer will prepare a Use of Force Report (DPD 12) carefully articulating the facts of the incident. The report will include:

- a. An accurate description of the incident using the coded tables and text boxes; and
- b. Names of all involved officers, subjects, and witnesses. Additional forms will be used as continuation pages; and
- c. A brief narrative of the significant facts which are not listed on the front of the form; and
- d. Documentation of medical examinations by paramedics or other responding medical personnel. This documentation will also be included on the Unified Summons and Complaint (US&C) or arrest reports, if any.
- e. All involved officers will complete a detailed statement describing their actions and observations.

**(4) REPORTING WHEN AN IN-CUSTODY DEATH OCCURS:**

When an in-custody death occurs (regardless of whether force was used), the narrative will indicate that "Officer(s) came in contact with the subject who later died - See homicide report."

**(5) ASSAULT ON A PEACE OFFICER:**

In any case of an assault on a peace officer, reporting officers will create a General Occurrence (GO) report titled "Investigation of Assault". When creating the GO report, the suspect should not be

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charged with resistance or any additional charges. For more information, see OMS 310.00.

- NOTE: When direct filing (DRMC 38-93 Assault) on a Unified Summons and Complaint (US&C), all additional charges (e.g., resistance, etc.) will be included.

**(6)   REPORT DISTRIBUTION:**

The Use of Force Report (DPD 12) or Injury While in Custody – Injury Prior to Arrest/Contact (DPD 12i) will be promptly distributed by the supervisor as follows:

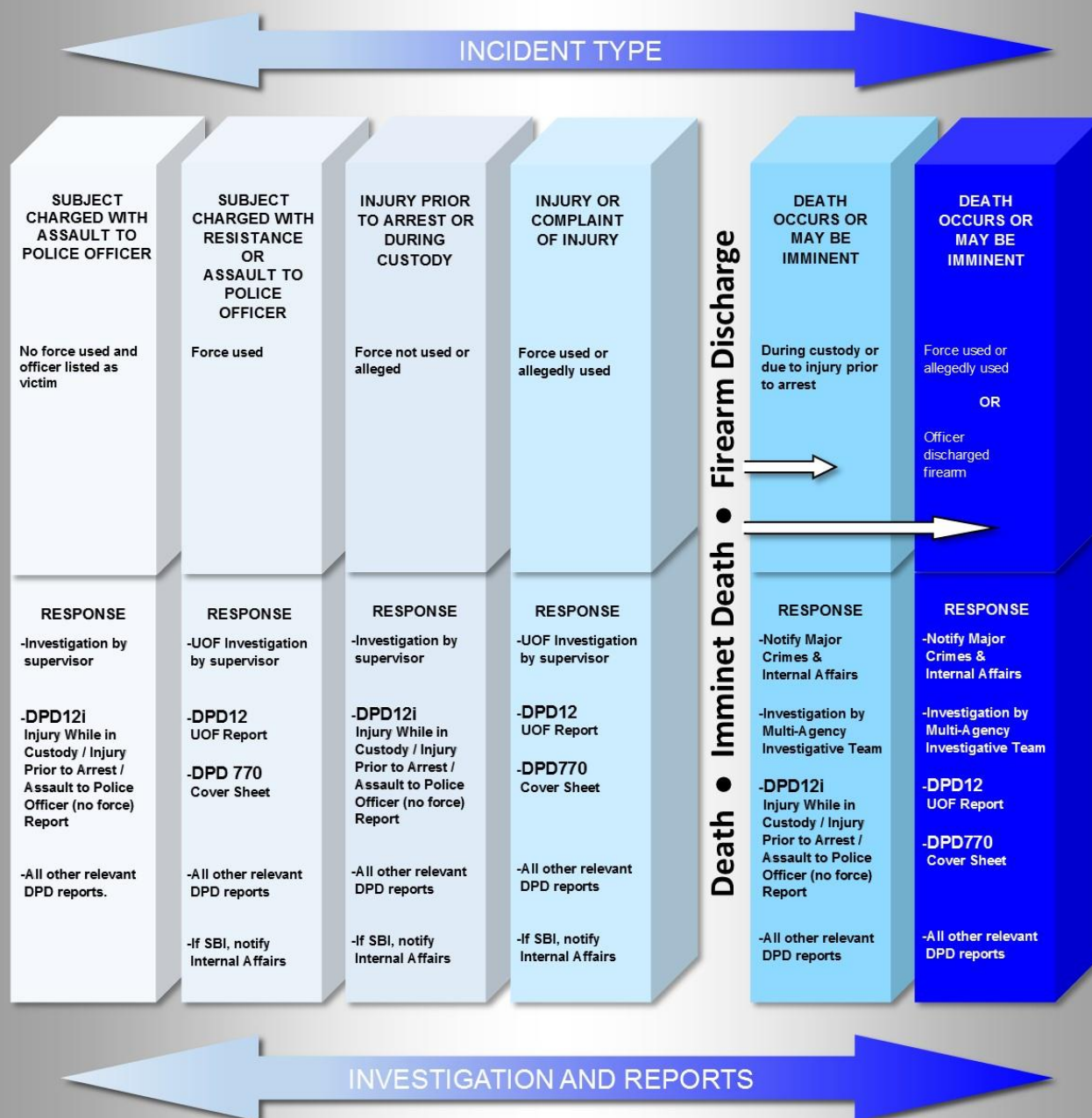
- The original report (DPD 12 or 12i), along with all original statements, copies of other reports and photos, will be forwarded to the Internal Affairs Division in a sealed envelope. The Internal Affairs Division will review all investigative packets received.
- One copy of the investigative packet will be forwarded to the officer's division chief.
- One copy of the investigative packet will be forwarded to the officer's division/district commander and lieutenant or section commanding officer (depending on assignment) through the chain of command.

**(7)   USE OF FORCE REPORTING CHART – SEE NEXT PAGE.**

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**REPORTING USE OF FORCE, RESISTANCE, ASSAULT TO POLICE OFFICER,  
INJURY PRIOR TO ARREST, AND INJURY/DEATH WHILE IN CUSTODY**

This graphic provides a general response guide based on circumstances.  
More detailed information is found in policy.





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## 105.00 FORCE RELATED POLICIES

REVISED: 01/27/2019

PAGE: 1 OF 4

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### 105.04 SHOOTING BY AND/OR OF POLICE OFFICERS

**(1) POLICY:**

When any law enforcement officer (regardless of agency or department) discharges a firearm in the City and County of Denver at a person (regardless of whether death or injury occurs) there will be an immediate emergency and investigative response. These procedures also apply when investigating the death or serious injury of a law enforcement officer.

**(2) DENVER 911 NOTIFICATION:**

Denver police officers involved in or becoming aware of any police shooting will immediately notify the police dispatcher via police radio. Officers will ensure that any critical information affecting the safety of responding officers and the public is communicated via police radio so that all affected personnel may monitor and react accordingly.

- When communicating additional or sensitive information, officers may request an I-call to reduce the number of persons monitoring the broadcast information.
- Denver 911 records all radio and telephone conversations and provides them upon request for use in an investigation.
- It is the responsibility of the Denver 911 Center to notify the appropriate resources, divisions, and personnel in accordance with their protocols.

**(3) PROCEDURES WHEN HANDLING PERSON / OFFICER WOUNDED BY GUNFIRE:**

- a. Once it is safe to approach the suspect, officers will handcuff, search the individual thoroughly and take control of any weapon(s) within their immediate vicinity. When the suspect poses no further risk to officers or bystanders, officers will remove the handcuffs and when appropriate, they should render first aid to their level of training without any unreasonable delay.
- b. If safety allows, weapons should be maintained where they are found and handled as little as possible. Gloves (latex or suitable substitute with the same qualities) will be used to handle the weapon(s) to protect any evidentiary value. If there is a need to render the weapon safe, all rounds must be accounted for and collected as evidence. Officers will ensure the chain of custody and security of the weapon is established and maintained.
- c. If any possibility of life exists, ensure transport of the individual/officer to a hospital without delay.
- d. One officer should accompany the victim (dead or alive) to the hospital and should note any statements made, take possession of clothing or other evidence, and protect personal property.
- e. The Denver Sheriff Department will be notified when placing a hold order on any individual.
- f. If the victim is a law enforcement officer, notify his/her commanding officer who will arrange for an officer guard. See OMS 505.10 (5).

**(4) RESPONSIBILITIES OF RANKING OFFICER AT THE SCENE OF A POLICE SHOOTING INCLUDE, BUT ARE NOT LIMITED TO:**

- a. Protect the crime scene per OMS 301.01.
  - b. Determine what occurred through civilian or officer witnesses at the scene. If there are no civilian or officer witnesses present, ask the involved officer for general information that will indicate the area to protect and the evidence sought.
  - c. Ensure that officers identify, separate, and obtain written statements from all civilian witnesses. The investigative team will review all statements and determine the need for additional detail or recording of the statement. The investigative team will obtain statements from all officer witnesses.
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- d. Ensure that the involved officer maintains his/her firearm in its condition at the conclusion of the shooting event, making no changes to the firearm except to render it safe and holster his/her handgun or safely stow a long weapon.
  - 1. Empty magazines, spent shell casings, etc., will remain where deposited. The Crime Scene Unit will document and collect these items during crime scene processing.
  - 2. The involved officer will maintain custody of his/her firearm until relinquished to Forensics and Evidence Division personnel, who will arrange to loan the officer a replacement firearm. An investigating officer from the Homicide Unit will document this transfer. Once tested, only the assigned Homicide Unit detective or a Homicide Unit supervisory officer will release the officer's firearm.
- e. Assign a supervisory officer to sequester and transport the involved officer to headquarters and remain with him/her until relieved. Officers and supervisors will not review the officer's BWC video.
  - Only individuals assigned to the multi-agency investigative team, the officer's commander and division chief, the Deputy Chief of Police, the Chief of Police, the officer's attorney, and the Denver District Attorney or a deputy district attorney may have access to the officer while sequestered. The Commander of the Major Crimes Division, the Division Chief of Investigations, the Deputy Chief of Police, or the Chief of Police must approve all other access.
- f. Provide the dispatcher and responding investigative team with all available information.
- g. Assist and follow the directions of the senior member of the Major Crimes Division in compliance with OMS Duties and Responsibilities 9.04.
- h. Assign an officer to complete a General Occurrence report (GO).
  - 1. When an officer discharges his/her firearm and wounds a suspect or other person the title will be "SHOOTING BY A PEACE OFFICER."
  - 2. When a suspect shoots and wounds an officer, the title will be "ASSAULT ON A PEACE OFFICER."
  - 3. When the shooting results in the death of any person/officer, the title is "HOMICIDE."
  - 4. When an officer discharges a firearm causing injury or death, any individual struck by gunfire is reported as the victim and the involved officer as the person reporting.
  - 5. Officers will leave the suspect section blank and keep the narrative section brief.
- i. In consultation with the command officer in charge of the investigation, complete an After Action Report (DPD 286), routing copies as appropriate including the Homicide Unit and elsewhere as required. Attach a copy of that day's personnel detail(s) for all districts and other units whose personnel covered the scene.
- j. Ensure completion of a Use of Force Report (DPD 12) in accordance with OMS 105.03:
  - 1. Use the front of the form to report the appropriate information. The narrative on the reverse side may indicate, "See After Action report."
  - 2. Attach a copy of the After Action report to the Use of Force report. Forward the original Use of Force report to the Internal Affairs Division, with one copy to the affected division commanders and division chiefs, and one copy to the Deputy Chief of Police.
- k. Ensure that ALL employees who respond to the scene, or assist in any way, submit individual statements detailing their duties and observations to the investigative team prior to going off duty.

**(5) MULTI-AGENCY JOINT INVESTIGATION:**

The investigation, evaluation, and review of an in-custody death or shooting by or of a peace officer, is a joint endeavor between the Denver Police Department, the Aurora Police Department, and the Denver District Attorney's Office (multi-agency investigative team). In addition, if an officer intentionally fires his/her weapon, regardless of whether a person is struck, the multi-agency investigative team will investigate and

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review the incident. The Commander of the Major Crimes Division (or designee) is in command of the investigation into incidents occurring within the City and County of Denver. The Major Crimes Division, as part of a multi-agency investigative team, will assist the Aurora Police Department with investigations of officer-involved shootings occurring within their jurisdiction.

All appropriate investigative methods, techniques, protocols, and reporting, including but not limited to the following, will be employed:

- a. Completely process and document the crime scene using diagrams, photographs, and video recordings in accordance with crime scene protocols outlined in OMS 301.01.
- b. Investigating officers will document statements as soon as practical following the shooting. Methods of documentation include those written, audio recorded, or video recorded at the discretion of the investigative command officer in consultation with the Denver District Attorney's Office.
- c. The officer(s) involved in the shooting may have an attorney present for legal assistance. Investigating officers will advise the involved officer in accordance with the Officer Advisement in Police Shootings form (DPD 759).
  - The Miranda Warning, Internal Affairs Division Garrity Advisement, or ordered statements under City Charter 42-30, will generally not occur unless evidence supporting a crime or serious department rule violation exists.
- d. The Division Chief of Administration (or designee) will act as a liaison for the Office of the Independent Monitor (OIM) during the investigation of officer incidents involving members of the Denver Police Department, Denver Sheriff Department, and the Denver Fire Department's certified arson investigators.
  - The Internal Affairs Division will participate in the investigation only at the request of the Commander of the Major Crimes Division (or designee), the Division Chief of Investigations, the Deputy Chief of Police, or the Chief of Police. This participation only involves cases where there is information or evidence of a crime or serious rule violation.
- e. All media inquiries will be managed by the communications director in consultation with the Commander of the Major Crimes Division (or designee).
- f. The decision to file criminal charges for police shooting cases is solely the responsibility of the district attorney's office having jurisdiction.
  - The Denver District Attorney will inform the Chief of Police, in writing, of the decision following the completion of the criminal investigation and a thorough review of the case.
- g. The Executive Director of Safety is responsible for the final administrative review of police shooting incidents.

**(6) CONSIDERATIONS FOR AN INVOLVED OFFICER FOLLOWING INVESTIGATION OF A POLICE SHOOTING/CRITICAL INCIDENT:**

- a. When death occurs, the officer will be removed from any line duty assignment, pending the results of an administrative review.
- b. When death results from any officer involved use of force, an in-custody death, or death which occurred as a direct result of police action, and the Major Crimes Division investigates the occurrence as a critical incident, the following will occur:
  1. The Commander of the Major Crimes Division will contact Police Psychological Services and provide the name and phone number of involved officers. Police Psychological Services will contact the officer(s) and schedule an appointment.

- Absolute confidentiality exists, and the officer(s) has the option of not discussing anything he/she does not wish to with Psychological Services.
- c. The division/district commander (or designee) of personnel involved in a shooting incident will notify the officers of the above provisions. If after two days, Psychological Services has not been able to contact the officer, Psychological Services will notify the Commander of the Major Crimes Division who will provide for such arrangements. No other exchange of information will occur before the appointment without the express written consent of the officer.



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## 105.00 FORCE RELATED POLICIES

REVISED: 01/27/2019

PAGE: 1 OF 3

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### 105.05 USE OF FORCE REVIEW BOARD

#### (1) USE OF FORCE BOARD PROCEDURES:

The Chief of Police has established a Use of Force Review Board which will examine all incidents where serious bodily injury or death results from any officer-involved use of force, all firearm discharges by active members of the department, except those incidents described in OMS 105.01(8) a. 2-4 and any in-custody death or any incident as directed by the Chief of Police. The Board is investigative in nature and is responsible for making recommendations on administrative matters, internal affairs investigations, department policy modifications, training, and commendations as they relate to use of force incidents.

##### a. Case Review:

1. The review of any case where a person has been injured or killed will be scheduled after the completion of the criminal investigation and the Chief of Police has received a written decision letter from the involved district attorney's office clearing the officer(s) and/or stating that the criminal process has concluded.
2. The review of non-injury firearm discharges will be scheduled after a final report on the incident has been completed.
3. The Division Chief of Administration (or designee) is responsible for notifying the Use of Force Board that a case is ready for review.

##### b. Case Presentation:

1. Use of Force Board meetings are held in closed sessions, with attendance limited to persons designated by the Chief of Police, or the Commander of the Conduct Review Board.
2. Case facts will be presented to the Board by an officer designated by the Division Chief of Administration (or designee). If a case involves a death, a Homicide Unit supervisor may make the presentation.
3. During presentation of the case, the involved officer(s) may have an observer present who was not involved in the incident under review, including witness testimony, but not during any Use of Force Board deliberations. The observer will not participate in any Use of Force Board proceedings.

##### c. Case Referral:

The Board is empowered to classify a case as in or out of policy, and:

- May refer a case to the involved officer's commander for consideration of a commendation.
- May refer a case to the Tactics Review Board.

#### (2) USE OF FORCE BOARD AUTHORITY:

The Use of Force Board is authorized to take all appropriate steps in its review of firearm discharges and use of force incidents, including, but not limited to the actions listed below.

##### a. The Use of Force Board:

1. Will have access to all reports, photographs, video tapes, statements, and other documents relating to the incident.
  2. Is empowered to call any officer witnesses needed to provide further clarification.
  3. May invite any civilian witnesses needed to provide further clarification.
  4. May direct that an additional investigation be conducted of the incident under review.
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5. Must give the involved officer the opportunity to testify before the Board prior to an administrative case filing for violation of department rules and regulations, although the officer is not required to attend the hearing. If the involved officer(s) decides not to attend the hearing, the hearing will be held in his/her absence.

**(3) USE OF FORCE BOARD RESPONSIBILITIES:**

Following a full review of a use of force incident, the Use of Force Board Chair will ensure the following actions are taken on behalf of the Board:

- a. Cases Requiring Further Investigation: The Use of Force Board will document areas of where additional information is requested and forward its request to the Division Chief of Administration. The Internal Affairs Division is responsible for gathering the requested information and once the information is obtained, the case will be resubmitted to the Use of Force Review Board.
- b. No Policy Violation: If the Use of Force Board has concluded that no departmental policy, procedure, rule or regulation has been violated, the Chief of Police will be notified of this finding in writing. Copies of this notification will be provided to the involved officer and his/her commander. One (1) copy will be placed in the involved officer's Internal Affairs Division file to be maintained per the records retention schedule.
- c. Policy Violation: If the Use of Force Board concludes that any departmental policy, procedure, rule, or regulation appears to have been violated, the Chief of Police will be notified of this finding in writing. The incident will then be referred to IAD which will then conduct any additional investigation determined to be necessary and forward the same to the Conduct Review Division in accordance with department policy. As in all other disciplinary matters, final authority and responsibility for disciplinary action rests with the Chief of Police and/or the Executive Director of Safety.
- d. Tactics Review: If there is a question regarding tactics used in the incident, the Use of Force Board may forward the case to the Tactics Review Board for an opinion. Any recommendations made by the Tactics Review Board regarding additional training or policy changes will be forwarded to the IAD/Conduct Review and/or the Chief of Police.
- e. Policy or Training Modification: The Use of Force Board may also make recommendations to the Chief of Police for any modification of department policy or training.
- f. Commendation Recommendation: The Use of Force Board may recommend that the involved officer(s) be considered for a commendation. If supported, the involved officers' commander (or designee) will be responsible for submitting a formal request to the Commendations Board per OMS 503.03.

**(4) USE OF FORCE BOARD RECORDS AND MEETINGS:**

All meetings and records of the Use of Force Board are confidential in nature and will not be disclosed to anyone without permission of the Chief of Police.

- a. Confidentiality extends to the Use of Force Board members, officer's representative, officer's commander, advisory witnesses, and any other persons attending a Use of Force Board meeting.
- b. After the Use of Force Board has made its findings and recommendation, all persons who participated in the Use of Force review will immediately return all records they received regarding the incident. The Internal Affairs Division will collect and retain all records of the Use of Force Review Board.
- c. In accordance with OMS 105.05 (1) a., within a reasonable time after the final report of an applicable use of force, an IAD staff member designated by the Internal Affairs Division Commander, in consultation with the Use of Force Board Chair, will determine the date and time of the meeting and will notify Board members.

**(5) BOARD MEMBERSHIP:**

- a. The commanding officer of the Conduct Review Division is the non-voting Use of Force Board
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Chair. Their responsibility to the Board includes:

1. Casting the deciding vote in the event of a tie.
  2. Gathering any reports as needed. This may be delegated to an IAD staff member.
  3. Processing decisions and recommendations of the Use of Force Board.
  4. Selecting a member of the department who has expertise in police tactics to serve as a non-voting advisory member of the Board.
- b. The voting membership of the Use of Force Review Board will be comprised of the following:
1. Commander of the Major Crimes Division.
  2. One (1) DPD commander – designated on a rotational basis.
  3. Two (2) community members selected and trained by the department.
  4. One (1) member from another Colorado law enforcement agency (per CRS 16-2.5-301(1)). The Chief of Police (or designee) will select the partnering agency.
- c. Use of Force Board findings will be by majority rule.
- d. Community Board Members
1. These individuals must have received training as designated by the Chief of Police, which at a minimum will include instruction in:
    - The Denver Police Department Use of Force Policy - OMS 105.01 and 105.02.
    - Hands-on training on all forms of the department's less-lethal alternatives
    - Overview of the Crisis Intervention Team (CIT) program
    - Overview of firearms training and policy
  2. These individuals will be rotated through the pool of qualified candidates and the Commander of the Conduct Review Division will make the assignments at the discretion of the Chief of Police.
- e. Advisory Witnesses:
- The Use of Force Board Chair may call upon advisory witnesses as necessary. These may include an assistant city attorney, the supervisor of the Firearms Unit, the department Less Lethal Coordinator, or the commanding officer of the Training Division.
- f. Additional Attendees:
1. The involved officer's division, district or section commander, and division chief may be present for the hearing but may not cast a vote.
  2. Other persons may only be present at the discretion of the Chief of Police or the Commander of the Conduct Review Division.

**(6) APPOINTMENT OF TEMPORARY MEMBERS:**

Should any member of the Use of Force Review Board recognize a conflict of interest on an individual case or be unavailable to attend a meeting for any reason, the member will be excused, and a temporary replacement will be appointed by the Chief of Police or the Commander of the Conduct Review Division.

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