

## 105.00 Use of Force Policy

### 105.01 Use of Force Policy

#### (1) POLICY:

- a. The Denver Police Department recognizes the value of all human life and is committed to respecting human rights and the dignity of every individual, and the Constitutional right to be free from excessive force, whether deadly or not, by a law enforcement officer. The use of force, especially force likely to result in serious bodily injury or death (including a firearm), is a serious action. When deciding whether to use force, officers shall act within the boundaries of the United States and Colorado constitutions and laws, ethics, good judgment, this use of force policy, and all other relevant Denver Police Department policies, practices and training. With these values in mind, an officer shall use only that degree of force necessary and reasonable under the circumstances. An officer may use deadly force in the circumstances permitted by this policy when all reasonable alternatives appear impracticable and the officer reasonably believes that the use of deadly force is necessary. Officers should ensure that they do not engage in unreasonable actions that precipitate the use of force as a result of tactical, strategic, and procedural errors that place themselves or others in jeopardy. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments, in circumstances that are tense, uncertain, and rapidly evolving, about the amount of force that is necessary in a particular situation. The reasonableness inquiry in an excessive force case is an objective one; the question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

It is important for officers to bear in mind that there are many reasons a suspect may be resisting arrest or may be unresponsive. The person in question may not be capable of understanding the gravity of the situation. The person's reasoning ability may be dramatically affected by a number of factors, including but not limited to a medical condition, mental impairment, developmental disability, physical limitation, language, drug interaction, or emotional crisis. Therefore, it is possible that a person's mental state may prevent a proper understanding of an officer's commands or actions. In such circumstances, the person's lack of compliance may not be a deliberate attempt to resist the officer. An officer's awareness of these possibilities, when time and circumstances reasonably permit, should then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

Policing requires that at times an officer must exercise control of a violent, assaultive, or resisting individual to make an arrest, or to protect the officer, other officers, or members of the general public from risk of imminent harm. Officers may either escalate or de-escalate the use of force as the situation progresses or circumstances change. Officers should recognize that their conduct immediately connected to the use of force may be a factor which can influence the level of force necessary in a given situation. When reasonable under the totality of circumstances, officers should use advisements, warnings, verbal persuasion, and other tactics and recognize that an officer may withdraw to a position that is tactically more secure or allows an officer greater distance in order to consider or deploy a greater variety of force options. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force should be de-escalated accordingly.

Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer should, as soon as practicable, secure or holster the firearm.

- b. The Denver Police Department recognizes that the duties of a peace officer may require officers to use force. The department will support the lawful use of reasonable and appropriate force by officers in the performance of duty. Use of force that is not lawful, reasonable and appropriate will not be tolerated. Department Policy as well as relevant Federal, State, and Local laws shall govern use of force by officers.

The level of force applied must reflect the totality of circumstances surrounding the immediate situation. The officer need only select a level of force that is within the range of "objectively reasonable" options. Officers must rely on training, experience and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed.

Officers may either escalate or de-escalate the use of force as the situation progresses or circumstances change. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force shall be de-escalated accordingly.

Officers who use force as described in the Colorado Revised Statutes or the Operations Manual of the Denver Police Department must immediately report the circumstances to a command or supervisory officer and comply with all reporting requirements.

An officer who witnesses inappropriate, unnecessary, unreasonable or excessive use of force by another officer shall report it immediately to a command or supervisory officer.

Officers who are off-duty and become involved in any use of force situation must report the circumstances to an on-duty Denver Police Department command or supervisory officer as soon as the situation is stabilized. An exception to the requirement of reporting to an on duty supervisor or command officer may be granted by the Chief of Police for major events involving off duty officers. If an exception is granted a supervisor or command officer working the event may be allowed to fulfill the reporting requirements.

Officers are responsible to ensure that medical treatment is provided to any person who has been injured or alleges injury as a result of being subjected to the use of force.

## (2) STATE STATUTES

- a. C.R.S. §18-1-707 states in the pertinent part: Use of physical force in making an arrest or in preventing an escape:
  1. "(1) Except as provided in subsection (2) of this section, a peace officer is justified in using reasonable and appropriate **physical force** upon another person when and to the extent that he reasonably believes it necessary:
    - a. To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or
    - b. To defend him self or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to affect such an arrest or while preventing or attempting to prevent such an escape.
  2. A peace officer is justified in using **deadly physical force** upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:
    - a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
    - b. To affect an arrest or prevent the escape from custody, of a person whom he reasonably believes:
      1. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
      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. (The Denver Police Department policy on use of deadly force in this situation is more restrictive than state law – see OMS 105.05(5).
  3. Nothing in subsection (2)(b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain custody.

4. For the purposes of this section a reasonable 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. If the believed facts and circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is affecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid."
- b. The community expects and the Denver Police Department requires that peace officers use only the force necessary to perform their duties. The level of force applied must reflect the totality of circumstances surrounding the immediate situation. The officer need only select a level of force that is necessary and within the range of "objectively reasonable" options. Officers must rely on training, experience and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed. Colorado law mandates, and holds an officer accountable to do so, in C.R.S. §18-8-803: which states in part:
- "(1)...a peace officer who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen."
- "(2)...'excessive force' means physical force which exceeds the degree of force permitted pursuant to 18-1-707 (Use of force in making an arrest or in preventing an escape). The use of excessive force shall be presumed when a peace officer continues to apply physical force in excess of the force permitted by section 18-1-707 to a person who has been rendered incapable of resisting arrest. "
- c. The law requires that an officer who witnesses another officer using excessive force must report it to a supervisor. C.R.S. §18-8-802 states in part:
- "(1)(a) A peace officer who... witnesses *another* peace officer... use physical force which exceeds the degree of physical force permitted pursuant to 18-1-707 [Use of force in *making an arrest or in preventing an escape*] must report such use of force to *such officer's immediate supervisor*.
- "(1)(c) Any peace officer who fails to report *such use of force* in the *manner prescribed* commits a class 1 misdemeanor..."

### (3) CASE LAW

- a. Colorado law does not require an officer to retreat from an attack rather than resorting to physical force. A peace officer is expected to take appropriate action to handle a situation and is authorized to use the reasonable and appropriate force necessary to overcome resistance. The degree of force required may be different in different situations. (Boykin V. People, 22 CO. 496, 45 P. 419).
- Law enforcement officers are permitted to use force to affect an arrest only to the extent that it is "objectively reasonable" under the circumstances (Graham v. Connor, 490 U. S. 386, 397, 109 S.Ct.1865, 104 L.Ed.2d 443).

### (4) PERTINENT CONCEPTS AND DEFINITIONS

- a. Definitions:
1. Reasonable Belief - When facts or circumstances the officer reasonably believes, knows, or should know; are such as to cause an ordinary and prudent police officer to act or think in a similar way under similar circumstances.
  2. Deadly Physical Force - That force, the intended, natural, and probable consequence of which is to produce death and which does, in fact, produce death.
  3. Bodily Injury - "Physical pain, illness, or any impairment of physical or mental condition."
  4. 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."
- b. Types of Resistance

1. Psychological Intimidation - Non-verbal cues in attitude, appearance, demeanor or posture that indicates an unwillingness to cooperate or a threat.
  2. Verbal Non-Compliance - Verbal responses indicating an unwillingness to comply with officer's directions or threat to injure a person.
  3. Passive Resistance - Physical actions that do not prevent the officer's attempt to control, for example, a person who remains in a limp or prone position.
  4. Defensive Resistance - Physical actions that attempt to prevent officer's control including flight or attempt to flee, but do not involve attempts to harm the officer.
  5. Active Aggression - A threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.
  6. Aggravated Active Aggression - Deadly force encounter.
  7. Psychological Intimidation, Verbal Non-Compliance and Passive Resistance usually do not involve conduct sufficient to support criminal charges related to resistance.
- c. Factors to determine "objectively reasonable" force options.
1. The reasonableness of an officer's use of force under the Fourth Amendment requires careful attention to the totality of the facts and circumstances known by the officer prior to using force, including:
    - a. The severity of the crime at issue and
    - b. Whether the suspect poses an immediate threat to the safety of the officer(s) or others and
    - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
  2. Each situation is unique. Sound judgment and the circumstances of each situation will dictate the force option the officer deems necessary. Depending on the circumstances, officers may find it necessary to escalate or de-escalate the use of force. It is not the intent of this policy to require officers to attempt to exhaust each option before moving to the next, so long as the level of force used is reasonable and appropriate under the circumstances.
- d. Use of Force/Control Options
1. The level of force employed must be commensurate with the threat posed by the suspect and the seriousness of the immediate situation. It is recognized and understood that circumstances are fluid and may change rapidly. Officers should rely on their training, experience, and assessment of the situation, to decide the appropriate level of force.
  2. **Requesting a CIT officer:** Whenever an officer learns, through his or her observations or otherwise, that a person with whom the officer is dealing may be a mentally ill, developmentally disabled, or emotionally disturbed individual, the officer will, if time and circumstances reasonably permit and dictate, contact dispatch and request that a CIT officer respond to the scene. If time and circumstances reasonably permit, officers will use distance, time, verbal tactics, or other tactics, to de-escalate the situation when dealing with such persons. When a CIT officer arrives on the scene, he or she should be the primary officer responsible for coordinating negotiations with the mentally ill, developmentally disabled, or emotionally disturbed individual unless determined otherwise by the CIT officer or a superior officer.
  3. **Edged Weapons:** When confronted by a suspect armed with a deadly weapon, including edged weapons, an officer should weigh the totality of the facts and circumstances of each situation. Practical considerations may include, but are not limited to, the proximity of the suspect to the officer(s) and other persons, how rapidly the circumstances are evolving, and the use of force options that may be necessary, appropriate, and available.

Officers should recognize that, when reasonable to do so with safety to officers and other persons in the vicinity, disengagement, repositioning, cover, concealment, barriers or retreat, although not required by law, may be a tactically preferable police response to a confrontation.

The value of all human life should be appropriately weighed in the decision process. Above all, the safety of the public and the officer must be the overriding concern whenever the use of force is considered.

- e. The following list of use of force/control options is not intended to suggest the order in which the various categories of force should be used in any specific situation:
1. Command presence
  2. Voice
  3. Hand control
  4. Chemical agent
  5. Hand strike, leg thrust / kick
  6. Baton / impact instrument
  7. Carotid compression technique
  8. RIPP™ restraint devices
  9. Less lethal weapons
  10. Deadly force
  11. Police service dog

#### **105.02 Use of Force Procedures** (Revised 04/2015)

##### (1) DUTY TO REPORT

Officers shall immediately report the circumstances of all resistances or incidents involving use of force to a supervisor or command officer. The supervisor or command officer shall ensure that all sections of the Denver Police Department Operations Manual and the Colorado Revised Statutes have been followed.

- a. The Use of Force Report DPD 12, the related supervisory investigation and reports are required in any of the following circumstances:
1. An officer discharges a firearm other than in training or for bona fide recreational purposes.
  2. A person is injured or dies while in custody. See OMS 301.13, In-Custody Incident Investigations and OMS 301.14(8), In-Custody Death Investigations.
  3. A person is injured or complains of injury as a result of use of any physical force including the use of any weapon, chemical agent or deployment of a police service dog.
  4. A defendant is charged with resistance and/or assault and a police officer is listed as the victim.
    - a. In any case of assault on a police officer, "Investigation of Assault" will be charged, except when citing directly using DRMC 38-93 Assault. The suspect should not be charged with resistance or any additional charges at this time. Details of the incident, including any additional charges, will be described in narrative form on the Unified Summons and Complaint.
  5. An officer encounters an individual with obvious injuries, and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from contact with the officer.
  6. An officer applies force through use of the following, whether an arrest is or is not made:
    - a. Any tool, object or device used as an impact weapon
    - b. Carotid compression technique

- c. Chemical agent
  - d. Pepper Ball System
  - e. ERD/TASER
  - f. Shotgun or forty (40) mm less lethal round
  - g. Police service dog
  - h. Hand strike, leg thrust / kick
  - i. RIPP™ restraint devices
7. An officer has an accidental discharge of a pepper ball system, chemical agent or an ERD/TASER, other than in training, which occurs in view of the public or where members of the public are affected.
- b. The primary involved officer will prepare the Use of Force report, or Injury While in Custody/Injury Prior to Arrest report, paying particular attention to the facts of the incident. The report shall include:
- 1. An accurate description of the incident using the coded tables and text boxes on the Use of Force report, and
  - 2. Names of all involved officers, suspect(s) and witnesses. Additional forms will be used as continuation pages. Only those sections applicable need be completed on continuation pages, and
  - 3. A narrative summary of the significant facts of the incident which are not listed on the front of the form.
- c. The officer's supervisor shall respond to the scene and shall personally contact the officer immediately after the incident. The supervisor will interview witnesses and suspects, collect evidence and take photographs when appropriate. The supervisor will assist in preparing the Use of Force report, or Report of Injury While in Custody/Injury Prior to Arrest paying particular attention to the facts of the incident. When indicated, supervisors shall counsel officers in methods to better handle future situations to avoid or minimize the use of force.
- d. Each resistance, injury prior to arrest and injury while in custody incident will require the supervisor to conduct an independent and complete investigation and prepare and distribute written reports and documents. The minimum guidelines are described below.
- 1. The supervisor's conclusion that the details of the incident and facts contained in the Report of Use of Force or Report of Injury While in Custody/Injury Prior to Arrest are accurate, and
  - 2. Names and statements of all witnesses, and
  - 3. A narrative summary of any significant facts determined through investigation, and
  - 4. Make every reasonable effort to identify 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, and
  - 5. The supervisor's conclusions that:
    - a. The use of force, employed tactics, and all reporting requirements were performed within policy, or
    - b. One or more policies or procedures may have been violated. The specific Operations Manual section(s) will be cited, and if the supervisor finds that violations may have occurred, his/her commanding officer will be immediately notified and will determine the appropriate course of action regarding additional investigation, i.e. notifying IAD, etc.
  - 6. When investigating a use of force incident involving deployment of the ERD/Taser, the supervisor must recover and place into the Property Management Bureau the Taser probes and identification confetti. Only medical personnel will be allowed to remove probes from individuals struck by the ERD/Taser.

Data from the ERD/Taser shall be downloaded into a computer file and the results shall be documented as part of the use of force investigation.

7. The Report of Use of Force, or Report of Injury While in Custody/Injury Prior to Arrest shall be promptly distributed as follows:
  - a. The original report, along with all original statements, copies of other reports and photos, shall be forwarded to the Internal Affairs Division in a sealed envelope.
  - b. One copy shall be forwarded to the officer's Deputy Chief.
  - c. One copy shall be forwarded to the officer's division or bureau commander through the chain of command.
8. Supervisory or command officers performing secondary employment SHALL NOT investigate use of force incidents or injury prior to arrest incidents involving themselves or any officer performing secondary employment under their supervision. On-duty personnel shall be summoned for this function. See 105.00(1) (b) above.
9. Any supervisory or command officer who investigates any incident involving any officer engaged in secondary employment must verify in TeleStaff that the officer was approved for secondary employment and document the results.
10. Supervisors and command officers SHALL NOT investigate use of force incidents in which they are personally involved.
11. If the involved employee is a member of the Denver Sheriff's Department, a supervisor from that agency will be requested via radio to respond to the scene and complete the appropriate reports required by that agency. Denver Police officers will assist with witnesses and/or statements if requested, however the reporting requirements **will** be the responsibility of Denver Sheriffs personnel.
12. Procedures for processing juveniles involved in a resistance incident are detailed in OMS 403.01(9).

## (2) DUTY TO REQUEST MEDICAL ATTENTION

- a. Any time there is an injury or an alleged injury as a result of force used by department personnel or an officer encounters an individual with obvious injuries and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from the contact with the officer, the involved officer(s) shall:
  1. Visually examine any person claiming injury, request medical attention and immediately notify a supervisor. When an individual is struck with a less lethal weapon or an impact tool/device, or is subjected to the carotid compression technique or sprayed with a chemical agent, an ambulance shall be called to the scene of the incident to examine the person at the earliest and safest opportunity. Medical personnel **will** determine whether further medical attention is required.
  2. Any prisoner suffering from any illness, injury or other condition that requires medical attention, such as the ingestion of narcotics or other harmful substances, will be sent to Denver Health Medical Center for treatment.
  3. It is the policy of the Denver Sheriff's Department to refuse custody of injured prisoners unless accompanied by reports indicating that they have been examined or treated, or have refused to submit to examination or treatment at Denver Health Medical Center or another appropriate medical facility.
  4. Violent behavior may mask dangerous medical conditions; therefore, detainees shall be continuously monitored and provided with medical treatment if needed.

## 105.03 Less Lethal Force and Control Options

### (1) POLICY

The primary duty of police officers is to protect the public, themselves and other officers. Less lethal force and control options may assist officers in performing these duties, but are not intended to substitute for the use of deadly force when it is reasonable and necessary. There is neither a requirement nor an expectation that officers attempt to use or exhaust less lethal options in situations requiring the use of deadly force.

(2) LESS LETHAL OPTIONS

The Denver Police Department authorizes the use of Electronic Restraints Devices (ERD)/TASER, Pepper Ball deployment systems, twelve (12) gauge and forty (40) mm specialty impact munitions to be carried by certain officers in their normal duty assignments.

(3) LESS LETHAL WEAPONS DEFINITIONS

- a. Less lethal: A concept of planning and force application which meets an operational or tactical objective, with less potential for causing death or serious injury than conventional more lethal police tactics.
- b. Less lethal weapon: Any apprehension or restraint device approved for carry, which when used as designed and intended has less potential for causing death or serious injury than conventional police lethal weapons. Less lethal weapons include Electronic Restraints Devices (ERD)/TASER, Pepper Ball deployment systems, less lethal twelve (12) gauge shotguns and forty (40) mm projectile systems and others as approved by the Chief of Police.
- c. Less lethal officer: An officer trained in the principles of less lethal force and the use of less lethal weapons. One who is authorized by the department to carry and deploy one or more of the weapons in the performance of their duties.
- d. Less lethal shotgun: Department approved twelve (12) gauge shotgun with a cylinder bore eighteen-inch (18) barrel. The shotgun, except those approved by the Chief of Police for use by Metro/Swat, has a high visibility stock and fore-end and is equipped with rifle sights.
- e. Twelve (12) gauge beanbag projectile: Department approved and issued. The beanbag projectile is a lead-shot-filled fabric bag designed to be non-penetrating and to deliver its kinetic energy over a broad surface area.
- f. Forty (40) mm Launcher: Either a single round or multi-launcher, department approved, with fixed stock and rifle barrel.
- g. Forty (40) mm Projectile: Only department approved and issued specialty impact munitions may be deployed.
- h. ERD/TASER: Advanced Taser ERD (Electronic Restraint Device) which uses an electrical signal to temporarily override the motor and sensory nervous system and directly control the skeletal muscles. This causes an uncontrollable contraction of the muscle tissue, allowing the Taser to physically debilitate a target regardless of pain tolerance or mental focus.
- i. Pepper Ball System: Air-Powered launch device and projectiles that are plastic spheres filled with powdered Oleoresin Capsicum (OC). Projectiles burst on impact and release OC. Pepper Ball projectiles subdue by strongly irritating the nose, lungs, and breathing. Response to inhaling Pepper Ball projectile OC powder varies greatly among individuals. In most cases, the symptoms last for a few minutes. The Pepper Ball can deliver projectiles with enough kinetic energy to produce abrasions, bruises, and/or welts.
- j. Cycle: A single application of the ERD/Taser's electrical impulse, regardless of duration, which causes electro-muscular disruption.

(4) LESS LETHAL WEAPON PROCEDURES

The authorization to carry a less lethal weapon is a privilege and can be revoked at any time, for any reason by the officer's commander with approval of the officer's deputy chief or higher.

- a. Officers will be selected, trained and certified as less lethal officers and alternates. Only less lethal officers and alternates are authorized to display, carry or deploy any less lethal weapon. When vacancies occur among the ranks of less lethal officers, they will be filled by designation of an officer from the alternate pool. Selection of less lethal officers and alternates will be based on the following criteria:
- b. Officers must be selected by their commanding officer and approved by their deputy chief.
  - 1. Officers must attend and pass a mandatory training course, an annual in-service course and periodic qualification conducted by Firearms Section personnel. The formal updated training curriculum and list of qualified officers will be kept on file at the Training Bureau.



2. Less lethal certified officers who fail to qualify with their firearm two or more quarters in a twelve (12) month period shall be removed from the less lethal program. It is the responsibility of the officer and the supervisor of the Firearms Section to notify the officer's commander and the officer's deputy chief verbally and in writing of the failure to qualify as required by this section.
  3. Violations of this policy may result in revocation of the privilege to carry a less lethal weapon.
- c. Storage and issuance of less lethal weapons.
1. 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 only less lethal weapons.
  2. Less lethal weapons will be issued to qualified officers by a designated 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.
  3. The Pepper Ball system may be issued for general patrol use and Field Force Squad or Zone commanders may also issue Pepper Ball deployment systems and less lethal shotguns or forty (40) mm projectile systems to qualified personnel assigned to each squad.
  4. All available less lethal weapons will be issued at the beginning of each shift provided sufficient numbers of qualified officers are on duty and returned at the end of the officer's shift to an armory officer or a supervisor.
  5. Qualified officers may not decline to be issued, carry, or deploy less lethal weapons.
  6. Each unit will designate a supervisor to perform the following maintenance on the unit's less lethal inventory on a twice-yearly basis on the date of the time change:
    - a. Inspect all ERD/Tasers, Pepper Ball launchers, and less-lethal shotguns. Any defective weapons will be delivered to the Less Lethal Coordinator in the Firearms Section.
    - b. Perform a data download from all ERD/Tasers in inventory. The data disks will be delivered to and retained by the Internal Affairs Division.
    - c. Adjust the time in the ERD/Taser's internal clock to reflect the regional time.
  7. Officers are responsible for the care and handling of less lethal weapons to the same degree and under the same conditions as other weapons. The less lethal weapons shall be safely handled, carried, and stored while on and off duty.
- d. Carrying and deployment of less lethal weapons
1. Officers or supervisors will determine when less lethal weapons are to be deployed. Officers deploying a less lethal weapon usually serve as cover officers only. Less lethal officers shall not perform any other duties, such as searching or handcuffing, until their weapon is secured. Planning and communication between officers and supervisors is important when making deployment and strategy decisions.
    - a. The less lethal shotgun is to be carried in the trunk of the police car, either in its case or in a dedicated rack if the vehicle is so equipped, with an empty chamber, the safety on and magazine loaded with four (4) rounds of less lethal ammunition.
    - b. The ERD will be carried on the belt in an approved holster, worn on the side opposite the firearm. When not worn, the ERD will be secured in a locked vehicle, not visible to passers-by.
    - c. The Firearms Section will maintain a list of department approved ERD holsters, and all ERD/Tasers will be carried in a holster from the approved list.
    - d. Pepper Ball guns may be authorized by Field Force Commanders for use during field force operations and major crowd control events. Subject to availability certified supervisors or officers may carry the Pepper Ball gun while on patrol.

- e. Officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.

2. Less lethal shotgun or forty (40) mm projectile:

a. Deployment

- 1. Use of a less lethal shotgun or the forty (40) mm projectile will be considered a use of force and must meet the requirements of all department policies and procedures and Colorado Revised Statutes.
- 2. Acceptable uses of a less lethal shotgun or forty (40) mm projectile include:
  - a. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances and it is reasonable and necessary in order to attempt to avoid having to use deadly force. (Active Aggression is defined as a threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.) OR
  - b. As a defensive weapon option in situations where it is likely to prevent an officer or a third person from being seriously injured or killed. OR
  - c. To incapacitate a suicidal person who cannot be safely controlled with other force options.

3. Unless deadly force is warranted, an officer shall not intentionally deploy the less lethal shotgun projectile or forty (40) mm projectile

- a. To the head, eyes, throat, neck, breasts of a female, genitalia, or spinal column.
- b. To a pregnant female, (if the officer has knowledge of the pregnancy).
- c. From a range of less than ten (10) feet with the less lethal shotgun, or less than five (5) feet with the forty (40) mm projectile.

4. When practicable, officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.

a. Reporting

- 1. When any person is struck by the projectile from a less lethal shotgun or forty (40) mm launcher, immediate evaluation by medical personnel is required, and paramedics will be called to the scene.
- 2. If the subject is examined and released at the scene by the paramedics, the use of the less lethal shotgun or forty (40) mm projectile shall be reported as an impact use of force. The Use of Force Report, DPD 12, shall be completed in accordance with the requirements of OMS 105.01, Use of Force Procedures.
- 3. The on-scene supervisor will notify a Crimes Against Persons (CAP) supervisor in the following circumstances, and the CAP supervisor will determine the appropriate level of investigation and coordinate documentation of the incident with the on-scene patrol supervisor:
  - a. If paramedics determine the subject is to be transported from the scene by ambulance, or
  - b. If the subject was struck by the less lethal projectile in the head or neck, regardless of the level of injury, or
  - c. If any part of the projectile penetrated the subject's body.
  - d. If it is discovered that the subject is a juvenile.

4. The medical examination by paramedics shall be documented on the Use of Force report, DPD 12, and the arrest paperwork, if any. Additionally, if the subject is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.
5. Pepper Ball System Deployment
  - a. Use of the Pepper Ball projectile shall be considered a use of force and must meet the requirements of all department policies and procedures and Colorado Revised Statutes.
  - b. Acceptable uses of the Pepper Ball projectile may include:
    1. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Defensive Resistance. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. (Defensive Resistance is defined as 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). OR
    2. In situations when its use is likely to prevent an officer or a third person from being injured, OR
    3. To incapacitate a suicidal person who cannot be safely controlled with other force options, OR
    4. When ordered by the field force commander or other command officer in crowd control or riot situations.
  - c. Unless deadly force is warranted, an officer shall not intentionally deploy the Pepper Ball projectile as follows:
    1. To the head, eyes, throat, neck, breasts of a female, genitalia, or spinal column.
    2. To a pregnant female, if the officer has knowledge of the pregnancy.
    3. On or in an open wound if the officer has knowledge of the open wound.
  - d. Officers shall communicate to other officers that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.
  - e. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the Use of Force report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.
6. Less lethal ERD/TASER Deployment
  - a. Use of an Electronic Restraint Device (ERD/TASER) shall be considered a use of force and must meet the requirements of all department policies and procedures and the Colorado Revised Statute.
  - b. Acceptable uses of the ERD/TASER include:
    1. To incapacitate a combative or physically resistive person; whose conduct rises at least to the level of Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances. (Active Aggression: A threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.), OR
    2. In situations when its use is likely to prevent an officer or a third person from serious bodily injury, OR
    3. To incapacitate a suicidal person who can't be safely controlled with other force options.
  - c. Unless deadly force is warranted, officers shall not intentionally deploy the ERD/TASER as follows:

1. To the head, eyes, throat, neck, chest, breast(s) of a female, genitalia, or spinal column.
  - a. The point of aim (meaning the placement of the red laser dot) shall be the muscles of the upper abdominal area just below the sternum.
  - b. Probe strikes in any restricted area shall be specifically noted in the Use of Force Report, with an articulation of the specific suspect action(s) that may have caused the probe to strike the restricted area.
2. To a pregnant female, unless deadly force is warranted and if the officer has knowledge of the pregnancy.
3. On an open wound, if the officer has knowledge of the open wound.
- d. Officers will not use the ERD/Taser in the following situations:
  1. When the suspect has come in contact with or is in an environment containing flammable gases or liquids.
  2. Drug houses where ether or other flammable chemicals are suspected.
  3. To prevent a suspect from swallowing evidence.
  4. To terminate a foot chase unless the suspect's actions rise to the level of Active Aggression.
  5. When the subject is in a position where a fall may cause serious bodily injury or death.
  6. Where the suspect is in water of sufficient depth that the suspect may drown once incapacitated.
  7. Where its use will cause the suspect to lose control of a motor vehicle unless they can articulate compelling reasons.
  8. When the subject is holding a firearm, unless they can articulate compelling reasons.
  9. When the subject is at the extremes of age or physically disabled, unless they can articulate compelling reasons.
  10. In a situation where deadly force is clearly justifiable, unless sufficient cover is present and is capable of providing deadly force (Lethal Cover) to protect the officers and or civilians as necessary.
  11. As a tool of coercion or punishment. Officers will not activate the Taser against a suspect more than the minimum number of times necessary to safely take the suspect into custody, and the suspect should be secured as soon as practical, while experiencing electro-muscular disruption, in order to minimize the number of cycles.
  12. On a handcuffed prisoner, unless the officer can articulate an immediate need to stop a threat or action that will cause serious injury or death to the officer or another person.
  13. No officer shall playfully or maliciously display, or intentionally misuse the ERD/Taser. See OMS 105.02(4)d.6.b. for acceptable uses of the ERD/Taser.
- e. Use of the Drive/Contact Stun is discouraged except in situations where the deployment of the "Probes" is not possible and the immediate application of the "Drive/Contact Stun" will control a subject displaying, at least, Active Aggression.
- f. Officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use by announcing "Taser, Taser, Taser"; or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.
- g. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. Officers shall advise responding medical personnel of any observations indicating that the suspect was under the influence of alcohol or controlled substance(s). This medical check shall be documented on the Use of Force report, DPD 12, and the GSS&C.
- h. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.
- i. Medical evaluation is required whether the subject is shot with probes or the ERD / TASER is used as a contact stun device. Only medical personnel will be allowed to remove probes from individuals shot with the ERD/TASER.

- j. Probes and identification confetti will be recovered and placed in the Property Management Bureau by the supervisor conducting the Use of Force investigation.
  - k. Data from the Taser shall be downloaded into a computer file and the results shall be documented as part of the Use of Force investigation.
  - l. Should a subject die after the use of the ERD/Taser, the Homicide Unit shall be notified per the procedure outlined in OMS 301.14(8), In-Custody Death Investigations. In addition to the procedure outlined in (i) and (j) above, the ERD/Taser will be secured as evidence and submitted to an independent laboratory for testing to ensure proper functioning.
- (5) **IMPACT TOOLS/DEVICES:** Include the department approved police batons (listed below) and the Orcutt Police Nunchaku (O.P.N.) when used as an impact device.
- a. Impact tools/devices authorized.
    - 1. Police Batons:
      - a. Standard issue twenty-nine (29) inch baton.
      - b. Standard issue thirty-six (36) inch riot baton.
      - c. Commercially manufactured or custom made batons that closely resemble the length, diameter, composition and appearance of the standard issue baton.
      - d. An approved expandable baton upon successful completion of specialized training. The Training Bureau will maintain a list of approved expandable batons.
      - e. All officers are required to receive yearly refresher training with the police baton in conjunction with Arrest Control Techniques (ACT) training.
    - 2. **Items prohibited for carry:** All other devices including but not limited to saps, sap gloves, brass knuckles, billy clubs, batons with ornate carvings or a metal ball attached to either end, yawara sticks, iron claws, shirkins, ropes, and non-department issued leg restraint devices, including rope or cord hobbles are not authorized for carry. See OMS 111.03.
    - 3. Officers must be able to articulate a compelling need to use any other device or object as an impact weapon.
    - 4. Officers are discouraged from using a duty handgun as an impact weapon for the following reasons:
      - a. The inherent danger of an accidental discharge endangering the officer and other bystanders.
      - b. The firearm is generally an ineffective impact weapon due to its construction and weight.
  - b. Impact Tool/Device - General Guidelines:
    - 1. If a person resists non-violently (Defensive Resistance), the impact tool/device may be used only to apply come along/escort compliance holds. A person, who remains non-violent, will not intentionally be struck with the impact tool.
    - 2. If a person forcefully resists and/or attacks an officer or other person, an officer is permitted to strike the person with an impact tool/device, provided the officer uses reasonable care to confine such strikes and power levels, to areas of the body which, if struck, are not intended or likely to cause serious bodily injury.
    - 3. The head and neck shall not be intentionally struck with the impact tool/device, unless the officer is justified in using deadly force.
    - 4. Impact tools/devices shall be maintained in serviceable condition and shall not be modified, altered or fitted with any unauthorized add-on device in any way that is not approved in writing by the department. They may be marked with the officer's serial number but shall not be marked or adorned in any other fashion.
    - 5. Defective, broken, or altered impact tools shall not be carried.
      - a. An officer who discovers an impact tool/device that is unserviceable must immediately cease carrying the item and, if issued by the department, promptly submit a written request for replacement through the chain of command.

b. All officers shall receive the designated training on each impact tool or device that they intend to carry before carrying the tool or device on or off duty. The mandatory training will be recorded in the officer's permanent training record. Division and bureau commanders will insure that the appropriate training is current and documented for all officers under their commands.

c. Use of Impact Tools or Devices to Apply Deadly Force:

1. An impact tool or device is generally used as a "compliance tool" to overcome non-deadly force exercised by a person resisting the officer's authority. However, in certain circumstances the impact tool or device can be properly used to apply greater force up to and including deadly physical force. Refer to CRS §18-1-707(2) for the circumstances under which deadly physical force can be used.
2. Examples of reasonable deadly force applications of impact tool or devices include:
  - a. Controlling a suspect who has disarmed an officer and the officer reasonably believes that the suspect is about to use the firearm against the officer or another.
  - b. Controlling a suspect who is armed with a knife or other deadly weapon and due to the suspect's close proximity, the officer reasonably believes that the suspect is threatening the officer with imminent death or serious bodily injury.

(6) Additional Force Options

a. Orcutt Police Nunchaku (OPN)

1. The Orcutt Police Nunchaku is an authorized safety tool primarily used for arrest control and self-defense. Other brands, designs, or types of nunchaku are not authorized.
2. Officers must first successfully complete a basic level OPN course authorized by the Denver Police Department prior to carry or use of the OPN in the performance of duties.
3. Officers must successfully complete refresher training as required by the department. Officers failing to re-certify as required shall no longer carry or use the OPN in the performance of duties.
4. If the OPN is used to strike a subject or injury occurs, whether or not an arrest is made, a Use of Force Report is required, in accordance with OMS 105.01(1).

b. Chemical Agent

1. Chemical agents provide an excellent force option in certain situations.
2. Chemical agents may be used when reasonable and justified in the following situations:
  - a. To prevent an injury to an officer or a third person.
  - b. To ward off threatening dogs and other animals.
  - c. To subdue a person who is threatening or attempting physical harm to himself or another.
  - d. Against subjects resisting arrest.
  - e. To quell rioting.
  - f. Against subjects interfering with an arrest.
  - g. Any situation where the officer can clearly articulate the need to deploy this device.
3. Authorization for use of a chemical agent, other than personal/individual issue, may not ordinarily be given by an officer below the rank of sergeant. The use of a chemical agent for crowd control or riot control must ordinarily be authorized by an officer of the rank of lieutenant or higher, except in the event of an emergency were the officer in charge of a field situation cannot reasonably contact higher authority.

4. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the Use of Force report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.

c. Carotid Compression Technique

1. Only officers who have been trained by the Denver Police Department in the application of the carotid compression technique may utilize this force option. Application of the carotid compression technique shall be considered a use of force and must meet the requirements of all department policies and procedures and the Colorado Revised Statutes.
2. Acceptable application of the carotid compression technique:
  - a. To incapacitate a combative or physically resistive person whose conduct rises to the level of Aggravated Active Aggression. The purpose is to subdue the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances. (Aggravated Active Aggression - Deadly force encounter)
3. Officers should be mindful not to apply direct pressure to either the front of the throat, back of the neck or head area either through compounded body weight, or direct pressure from a knee or arm in an effort to gain physical control of the person. Application of such pressure can cause unintended serious bodily injury or even death.
4. An immediate medical evaluation by paramedics is required to determine, if any, the degree of injury sustained by the suspect. This medical check shall be documented on the Use of Force report and any other charging document. If the arrestee is jailed, the officer will notify detention facility personnel that a carotid compression technique was applied.

d. Police Service Dogs

Policy

The mission of the Denver Police Department is to deliver high quality public safety services so all people may share a safe and healthy environment. The department, in partnership with the community, will endeavor to achieve our mission by utilizing the most modern and effective practices and methods. One of those effective practices is the utilization of a well trained professional Police Canine Unit. The police canine provides many valuable services including criminal apprehension, evidence and contraband detection, locating missing persons, and public relations activities.

1. Canines assigned to the Metro/SWAT Bureau will be available to assist in searches, crowd control, tracking, explosive and narcotic detection, security at scenes of major crimes or disasters, in addition to regular patrol duties and special assignments.
  - a. If an officer needs a canine and none are on duty, the dispatcher shall be notified. The canine supervisor will be contacted and will make the determination of which canine officer to send.
  - b. Canine handlers will be in complete charge and responsible for their dogs' deployment, regardless of the ranking officer on the scene. Canine handlers will determine the appropriate utilization of their dogs.
  - c. When it is believed a suspect may be armed with a weapon likely to cause injury or death to the police service dog, the handler may exercise his/her discretion before deploying the dog.
  - d. Any conflicts in utilization shall be reported in writing, via the chain of command, to the commanders of the officers involved, as soon as possible.
2. A police service dog may be used to perform a search or apprehension in a reasonable manner as determined by the handler and in compliance with all applicable laws and statutes regarding police use of force, the Denver Police Department Use of Force Policy, and the Canine Unit Policies and Procedures when the following conditions exist:

- a. When there is probable cause to believe the suspect has committed a crime or is a danger to themselves or others, and
  - b. When the suspect is actively evading efforts to take them into custody and the use of a canine would reduce risk to officers or the public.
3. Risk to Third Parties: In using police service dogs, the canine handler shall exercise reasonable care to avoid unnecessary risk of injury to persons who are not the subject of a search or apprehension.
  4. Should a police service dog injure any person:
    - a. The arrest scene and any criminal suspects will be immediately secured.
    - b. The canine officer/handler will immediately request medical assistance.
    - c. The injury will be reported on a Report of Use of Force, DPD 12, and in accordance with the requirements of OMS 105.01, Use of Force Procedures.
    - d. Injuries caused by the police service dog to persons who were not the subject of the search will be reported on a Use of Force Report.

#### 105.04 Shooting By and/or of Police Officers

- (1) When any law enforcement officer, regardless of agency or department, discharges a firearm as a result of contact with a person, whether or not a death or wounding occurs, officers shall immediately notify the Denver 911 dispatcher. Officers may request I-Call communication if officers wish to reduce the number of persons who may receive the broadcast information. The landline telephone is the only way an officer can communicate with the dispatcher in confidence. Denver 911 records all radio and telephone conversations and provides them for use in an investigation upon request. This procedure also applies when investigating the death or wounding of law enforcement officers.
  - a. The dispatcher will immediately follow Denver 911 procedures by notifying the following as required:
    1. Ambulance.
    2. Sufficient patrol coverage.
    3. The on-duty command officer for the district of occurrence.
    4. The on-duty homicide and/or general assignment detectives.
    5. The on-call Police Shoot Team.
      - a. Major Crimes Section command officer
      - b. Homicide Unit supervisor
      - c. Primary and secondary homicide investigators
    6. The Crime Laboratory
    7. The on-call District Attorney.
    8. The Commander of the Major Crimes Division
    10. The Deputy Chief of Operations
    11. The Commander of the Internal Affairs Division
    12. The Public Information Officer
    13. The Chief of Police
    14. The Executive Director of Safety
    15. The involved officer's commander. If the officer has been injured or killed, this commander is responsible for notification of the officer's family.
    16. The Coroner's Office, in any case where death occurs.



- (2) Procedures when handling person / officer wounded by gunfire:
- a. Once it is safe to approach the suspect, officers will handcuff, search the suspect thoroughly and take control of the suspect's weapon(s). When the suspect poses no further immediate threat, officers will remove the handcuffs and when appropriate, should render first aid to their level of training without any unreasonable delay.
  - b. Rubber/latex gloves will be used to handle the weapon(s) to protect any evidentiary value. Officers will ensure the chain of custody and security of the weapon is established and maintained. If there is a need to render the weapon safe, all rounds must be accounted for and collected as evidence.
  - c. Remove the person/officer to the hospital by ambulance if any possibility of life exists.
  - d. One officer should accompany the victim (dead or alive) to the hospital. He/she should note any statements made, take possession of clothing or other evidence and protect personal property.
  - e. When placing a hold order on a victim who is also a suspect in a crime, notify the Denver Sheriffs Department.
  - 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).
- (3) The ranking officer at the scene is immediately responsible for crime scene protection.
- (4) The responsibilities of the ranking officer at the scene of a Police Shooting include, but are not limited to, the following:
- a. Protect the crime scene using appropriate personnel and methods.
  - 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. Officers shall identify and sequester all witnesses to the incident. Officers shall obtain written statements from all civilian witnesses. Investigators will review all statements and determine the need for additional detail or recording of the statement. Investigators shall obtain statements from all officer witnesses.
  - 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 make the firearm safe. Empty magazines, speed loaders, spent shell casings, etc., shall remain where deposited. Detectives shall document and collect these items during crime scene processing. The involved officer shall maintain custody of his/her firearm until relinquished to Crime Laboratory personnel, who will make arrangements to loan the officer a replacement firearm. An investigator from the Homicide Unit shall document this transfer. Once tested, only the assigned Homicide Unit detective or a Homicide Unit supervisory officer shall release the officer's firearm.
  - e. Assign a supervisory officer to sequester and transport the involved officer to headquarters and remain there with him/her until relieved. Only investigators assigned to the Police Shooting Team, the officer's commander, the officer's attorney and the District Attorney have access to the officer while sequestered. The Commander of the Major Crimes Division must approve all other access.
  - f. Provide the dispatcher and responding detectives with all available information.
  - g. Assist and follow the directives of the senior member of the Criminal Investigation Division in compliance with Section 14.12.
  - h. Assign an officer to complete a General Offense 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 the person shot will be reported as the victim and the involved officer is listed as the person reporting.

5. Officers shall leave the suspect section blank and keep the narrative section brief.
    - i. Complete an After Action Report and route copies as appropriate and send a copy to the Homicide Unit. Attach a copy of the personnel detail(s) for that day for all districts or other units that covered the scene.
    - j. Ensure the completion of a Use of Force Report (UOF) DPD 12:
      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 UOF report. Forward the original UOF report to the Internal Affairs Division, with one copy to the division commander and one copy to the respective deputy chief.
    - k. Ensure that ALL officers who respond to the scene, or who assist in any way, submit individual statements detailing their duties and observations to the Homicide Unit prior to going off duty.
- (5) The investigation of a shooting, by or of, a peace officer is a cooperative endeavor between the Denver Police Department and the Denver District Attorney's Office. The investigation is under the command of the Commander of the Major Crimes Division or designee. Officers and investigators shall use all appropriate investigative methods and techniques including, but not limited to, the following:
- 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. Investigators shall 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 District Attorney. The interview order is generally civilian witnesses first, followed by officer witnesses. The interview(s) of the involved officer, those officers discharging a firearm, usually occur last.
  - c. The officer involved in the shooting may have an attorney present for legal assistance. Investigators 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 C5.73-6, will generally not occur unless evidence supporting a crime or serious department rule violation exists.
  - d. The Commander of the Internal Affairs Division (IAD) 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 Sheriffs Department and the Denver Fire Department's 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, or the Chief of Police. This participation only involves those cases where information or evidence supports there is a suspected crime or serious rule violation.
  - e. Refer all media inquiries to the Commander of the Major Crimes Division or designee, generally, the Public Information Officer.
  - f. The command officer in charge of the investigation will prepare, or cause the preparation, of an After Action Report (DPD286) and distribute the report as appropriate prior to going off duty.
  - g. The criminal charge filing decision for a police shooting case is solely the responsibility of the Denver District Attorney's Office. Officers shall not publicly speculate about the decision. The 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. The District Attorney bases the review and filing decision on the criminal standard of proof beyond a reasonable doubt and does not address administrative remedies which have a different legal level of proof.
- (6) Considerations for the involved officer following the investigation of the 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. The officer's command will contact Police Psychological Services as soon as possible after the incident and schedule an appointment for the officer. The commander, with approval from their deputy chief, may arrange excused days for the officer until the police psychologist has met with the officer and made a verbal recommendation to the commander as to when the officer can return to duty. The purpose of the Psychological Services appointment is not to investigate the

officer's actions or assess his/her fitness for duty.

In cases with extenuating circumstances, temporary or permanent assignment changes may occur.

- c. 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 incident is investigated by Major Crimes as a critical incident, the commander will follow the same procedures listed above in (6)b.  
 Absolute confidentiality exists and the officer has the option of not discussing anything he/she does not wish to discuss. The officer may include others in this interview, such as family members, fellow officers, or members of the Critical Incident Trauma Team (CITT).
- d. The commanding officer of the officers involved in a shooting incident will notify the officers of the above provisions. Additionally, the commanding officer will provide Psychological Services with the names of those officers whom they must contact. If after one week Psychological Services has not been able to contact the officer, Psychological Services will notify the commanding officer who shall provide for such arrangements. No other exchange of information will occur without the express written consent of the officer before the interview.
- e. In the event of a civil lawsuit against the City and County of Denver and the officer, the City Attorney's office will provide legal representation. Exceptions include when the officer acts outside of the scope of his/her employment or neglects to notify the Civil Liability Unit of the potential action for a lawsuit.

#### **105.05 Discharge of Firearms** (revised 06-2015)

- (1) Officers shall not discharge any firearm in the performance of their duties except as authorized by law and the rules, regulations and procedures of the Denver Police Department.
- (2) All members of the Denver Police Department shall safely handle firearms while performing on-duty assignments and at all times while carrying/handling firearms while off-duty.
- (3) When all reasonable alternatives appear impractical, a law enforcement officer may resort to the lawful use of firearms under the following conditions when he/she reasonably believes that it is necessary. **When feasible**, it is necessary, to give some warning before engaging in the use of deadly force. If possible, identify yourself as a police officer, give the command you want followed, and state your intention to shoot.
  - a. To defend him/herself, or a third person from what he/she reasonably believes to be the use or imminent use of deadly physical force (C.R.S. §18-1-707); or
  - b. To affect an arrest, or to prevent the escape from custody of a person whom he/she reasonably believes:
    - 1. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
    - 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.R.S. §18-1-707).
    - 4. The following definitions shall apply to all of OMS 105.04(3) a. and b:
      - a. REASONABLE BELIEF: When facts or circumstances the officer reasonably believes, knows, or should know, are such as to cause an ordinary and prudent police officer to act or think in a similar way under similar circumstances.
      - b. DEADLY PHYSICAL FORCE: That force, the intended, natural, and probable consequence of which is to produce death and which does, in fact, produce death.

- c. **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 or 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.

- c. A law enforcement officer may also engage in the lawful use of firearms under the following conditions:
  - 1. To kill a dangerous animal or one that humane treatment requires its removal from further suffering and alternative methods of disposition are impractical.
  - 2. To participate in authorized training at a target range.
  - 3. To participate in any legitimate sporting activity.

(4) Officers will not discharge firearms under the following conditions:

- a. At another person unless the circumstances are such that the officer would be justified under the law if the shot killed the person
- b. Where there is likelihood of serious injury to persons other than the person to be apprehended
- c. As a warning or attention shots
- d. Solely to protect property
- e. At a moving vehicle, see below

(5) Moving vehicles

- a. Firearms shall not be discharged at a moving or fleeing vehicle unless deadly force is being used against the police officer or another person present by means other than the moving vehicle.
- b. Officers shall exercise good judgment and not move into or remain in the path of a moving vehicle. Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, shall not be justification for discharging a firearm at the vehicle or any occupant. An officer in the path of a vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants.
- c. Firing at moving vehicles is prohibited for the following reasons:
  - 1. Firing at a moving vehicle may have very little impact on stopping the vehicle.
  - 2. Disabling the driver may result in an uncontrolled vehicle, and the likelihood of injury to occupants of the vehicle (who may not be involved in the crime) may be increased when the vehicle is either out of control or shots are fired into the passenger compartment.
- d. It is understood that the policy in regards to discharging a firearm at a moving vehicle, like all written policies, may not cover every situation. Any deviations shall be examined rigorously on a case-by-case basis.
- e. Officers are discouraged from immediately approaching a stopped vehicle at the conclusion of a pursuit or other high-risk stop. Where reasonably possible, officers shall use the felony stop tactic.
- f. Firing from a moving vehicle: Accuracy may be severely impacted when firing from a moving vehicle, and firing from a moving vehicle may increase the risk of harm to officers or other citizens. Officers should not fire from a moving vehicle except in self defense or defense of another from what the officer reasonably believes to be the use or imminent use of deadly physical force.

- (6) Above all, the safety of the public and the officer must be the overriding concern when the use of force is considered.

- (1) The Chief of Police has established a Use of Force Review Board which will examine all incidents where serious 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 105.04(3) d. & e, any in-custody death and any incident as directed by the Chief of Police. The board is investigative in nature and is responsible for making recommendations on administrative justification, Internal Affairs investigations, department policy modifications, training, and commendations. The board is empowered to classify a case as in or out of policy.
  - a. The board may refer a case to the involved officer's commander for consideration of a commendation.
  - b. The board may refer a case to the Tactics Review Board.
  - c. The Use of Force Board 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 from the District Attorney stating whether or not criminal charges will be filed. The responsibility for notifying the Use of Force Board that the case is ready for review rests with the commanding officer of the Internal Affairs Division or his designee.
  - d. The Use of Force Board review of non-injury firearm discharges will be scheduled after a final report on the incident has been completed. The responsibility for notifying the Use of Force Board that the case is ready for review rests with the commanding officer of the Internal Affairs Division or his designee.
- (2) The Use of Force Board is authorized to take all appropriate steps in its review of firearm discharge and use of force incidents, including, but not limited to the following:
  - a. The Use of Force Board shall review all reports, photographs, video tapes, statements and other documents relating to the incident.
  - b. The Use of Force Board is empowered to call any officer witnesses needed for further clarification.
  - c. The Use of Force Board may invite any civilian witnesses needed for further clarification.
  - d. The Use of Force Board may direct additional investigation to be conducted by those who completed the original report of the incident under review.
  - e. The Use of Force Board 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.
  - f. The involved officer is not required to attend the hearing. If the involved officer decides not to attend the hearing, the hearing shall be held in the officer's absence.
- (3) Following full review of the use of force incident, the Use of Force Board has the following responsibilities:
  - a. 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 fact in writing. Copies of this notification will be provided to the involved officer, his/her commander. One (1) copy will be placed in the involved officer's Internal Affairs Division file subject to purge at periods specified by the Chief of Police.
  - b. If the Use of Force Board has concluded that any Departmental Policy, Procedure, Rule or Regulation appears to have been violated, the Chief of Police will be notified of this fact in writing. The Use of Force Board will document the areas which it considers to be deficient, and forward a copy of its findings to the Commander of the Internal Affairs Division. The Internal Affairs Division will be responsible for investigating the specific points the Use of Force Board has found to be deficient. At the conclusion of the investigation, the case will be resubmitted to the Use of Force Review Board for an administrative finding. Sustained cases will then be processed and forwarded to the Conduct Review Division. As in all other disciplinary matters, final authority and responsibility rests with the Chief of Police.
  - c. 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 Chief of Police.

- d. The Use of Force Board may also make recommendations to the Chief of Police for any modification of department policy or training.
  - e. Upon completion of its review the Use of Force Board may recommend that the involved officer(s) be considered for a commendation. The involved officers' commander or his/her designee will then be responsible for the following:
    - 1. Approve or reject the recommendation for commendation made by the Use of Force Board, and;
    - 2. If approved, complete and submit a formal request for commendation using procedures outlined in OMS 503.03.
  - f. The facts of the case shall be presented to the Use of Force Board by the IAD investigator assigned to the case, or in the event of a death, it may be presented by a Homicide Unit supervisor.
  - g. The involved officer(s) may have an observer present, who was not involved in the incident under review, during the presentation of the case, including witness testimony but not during any Use of Force Board deliberations. The observer shall not participate in any Use of Force Board proceedings.
- (4) All records of the Use of Force Board are to be considered confidential in nature and will not be disclosed to anyone without permission of the Chief of Police.
- a. This confidentiality shall extend to cover the Use of Force Board members, officer's representative, officer's commander, advisory witnesses, and any other persons attending as allowed by the Chief of Police.
  - b. Records of the Use of Force Review Board will be retained by the Internal Affairs Division.
- (5) Board Membership and Responsibilities
- a. The commanding officer of the Conduct Review Division is the non-voting Chair. Exception: in the case of a tie, the Use of Force Board Chair shall cast the deciding vote.
    - 1. 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 in compliance with OMS 105.06(1)c.& d., and will notify the other board members.
    - 2. The Use of Force Board will be called within a reasonable time after the final report of any use of force that meets the criteria outlined in OMS 105.06(1).
    - 3. The Use of Force Board Chair is responsible for gathering any reports needed by the Board. He may delegate this duty to an IAD staff member.
  - b. The voting membership of the Use of Force Review Board will be composed of the following persons:
    - 1. The Commander of Major Crimes Division
    - 2. A designated rotating commander
    - 3. Two community members trained and certified by the department.
  - c. The Use of Force Board Chair shall select a member of the department who has expertise in police tactics to serve as a non-voting advisory member of the board.
  - d. Use of Force Board findings shall be by majority rule.
  - e. Community Board Members
    - 1. The community member must have received training as designated by the Chief of Police, which at a minimum shall include instruction in:
      - a. The Denver Police Department Use of Force Policy. See OMS 105
      - b. Colorado State Statutes pertaining to the use of force by police officers
      - c. Hands-on training on all forms of the department's less-lethal alternatives
      - d. Overview of the Crisis Intervention Team (CIT) program

- e. Overview of firearms training and policy
- 2. Community representatives will be rotated through the pool of qualified candidates and the Commander of the Internal Affairs Division will make the assignments at the discretion of the Chief of Police.
- f. Advisory Witnesses
  - 1. The involved officer's division or bureau commander may be present for the hearing, but will not be a voting member.
  - 2. Advisory witnesses may be called as determined by the Use of Force Board Chair. These may include a city attorney, the supervisor of the Firearms Section, the department less lethal advisor, or the Commander of the Training Bureau.
  - 3. Any additional persons may only be present at the discretion of the Chief of Police or the Commander of the Conduct Review Division.
- (6) Should any member of the Use of Force Review Board recognize a conflict of interest on an individual case the member will be excused and a temporary replacement will be appointed by the Chief of Police or the Commander of the Conduct Division.
- (7) Should any member of the Use of Force Board be unavailable to attend a meeting for any reason, that member will be replaced by a temporary member appointed by the Chief of Police.

#### **105.07 Firearms - Requirements and Inspection (Revised 11/2014)**

- (1) Officers will equip themselves with firearms of suitable caliber and manufacture as will meet requirements set forth by the Chief Firearms Officer with the approval of the Chief of Police.
  - a. Prior to purchasing a firearm for official use, officers may obtain a copy of the Firearms Purchase Authorization, DPD 30. The use of this form eliminates the requirement to submit to the CBI background check required by Colorado Law. Officers are to submit the form to THEIR commanding officers for signature. Commanders are to authorize purchases only for officers under their commands. The form is then given to the gun dealer prior to the purchase of the weapon.
- (2) The Chief Firearms Officer, with the approval of the Chief of Police, shall prepare a list of firearms which are approved for carry. The list shall be updated as necessary by the Chief Firearms Officer, with the approval of the Chief of Police; the DPD 30 form will be revised with the current list.
 

The five (5) categories of authorized firearms are as follows:

  - a. Uniform: This category lists the handguns approved for uniform carry. Officers shall carry only one (1) approved handgun and holster visibly displayed. All approved handguns in the uniform category are also approved for all other categories.
  - b. Plain Clothes: This category lists the handguns approved for carry by officers in plain clothes while on duty. These handguns are also acceptable off-duty.
  - c. Administration: This category lists the handguns approved for carry by non-uniform administrative officers while on duty. The administrative status of a Denver Police Department officer's assignment will be determined by the deputy chief in charge of the officer's assignment.
  - d. Off-duty/back-up: This category lists the handguns approved for off-duty carry and back-up. All handguns approved for uniform, plain clothes and administrative categories are also authorized for off duty or back-up use.
  - e. Utility: This category lists firearms approved for carry while performing specialized functions. The unit commander will determine the necessity for utilization of this category.
- (3) Inspection of Firearms. All firearms must be inspected, function tested, and approved by the Firearms Section prior to being carried either on or off duty.
  - a. An annual inspection of all firearms will be required. Officers are prohibited from carrying any firearm which has not been inspected, approved and recorded within the previous twelve (12) calendar months. Each firearm will be inspected and fired for qualification once in each calendar year.
  - b. Firearms found to be defective during an inspection will be brought to the attention of the officer

owning the firearm. The officer will have such defects repaired. The repaired firearm will be submitted to a Firearms Section officer for inspection and approval prior to being carried.

- c. Qualification must be accomplished prior to carrying the firearm.
- (4) Repairs to firearms. Officers assigned to the Firearms Section are authorized to repair certain approved firearms. The following applies to in-house repairs.
- a. The firearm(s) in question must be an approved firearm.
  - b. Department owned firearms shall not be altered in any way, except by Firearms Section personnel or by order of the Chief of Police.
  - c. The officer reserves the right to have personally owned firearms repaired by any person or firm of choice. The cost of such repairs shall be borne by the officer. After repair or alteration by any person or firm other than the Firearms Section the firearm must be submitted to the Firearms Section for inspection and approval prior to being carried.
  - d. In the event that needed repairs are of such nature that factory repair is required, personally owned firearms shall be returned by the officer to the factory for repair at the officer's expense.
  - e. Loaner handguns will be provided by the Firearms Section under the following conditions: □
    - 1. The firearm being repaired is a departmentally approved firearm.
    - 2. The loaner must be of the same make, model and barrel length as the one being repaired, if available.

(5) Method of carrying handguns

- a. All semi-automatic handguns will be carried in departmentally approved directional draw holsters and shall be worn on the strong side. Uniform holsters must have a covered trigger and retention method. Holster Authorization Letter, DPD 30H, will list approved holsters for uniform carry and requirements for plain clothes and off duty holsters.

(6) Cleaning and loading firearms

Officers shall clean, repair, load or unload firearms only in those locations designated by the building manager. This restriction shall not apply to firearms when loading or unloading is ordered by a supervisory officer for inspection or training purposes, or in the official performance of duties.

(7) Utility firearms

- a. No personal or unauthorized utility firearms, including privately owned shotguns, shall be carried without prior authorization of the officer's commander.
- b. Utility firearms, when carried routinely in police cars, shall not have a round in the chamber. Rounds will be carried in the magazine. Rounds which are chambered in anticipation of use will be unloaded and returned to the magazine upon termination of the incident and prior to returning the firearm to the police vehicle.
- c. Firearms maintenance will be performed by Firearms Section personnel on departmentally owned firearms.
- d. Only ammunition deemed appropriate by the Firearms Section will be used in these firearms.
- e. Department approved utility firearms include:
  - 1. Utility firearms listed on the DPD 30
  - 2. 40mm less lethal firearms loaded with department issued less lethal ammunition.
  - 3. Specialized firearms authorized for use by Metro/Swat or other specialized units loaded with department issued or authorized ammunition.

(8) Report of firearm purchase, loss or replacement (DPD 30).

- a. Officers shall file a General Occurrence (GO) report when a firearm is lost by any means. A General Occurrence (GO) report concerning the loss of any firearms shall contain all pertinent facts and information surrounding the incident.
- b. Officers using DPD 30 to purchase a firearm are reminded that disposition of these firearms



must be in compliance with Federal law.

(9) Ammunition

All officers shall load their firearms and carry on their person only ammunition issued or approved by the Firearms Section. Officers are prohibited from carrying reloaded ammunition of any kind.

- a. Ammunition, both service and practice, will be furnished by the department for standard firearms.
- b. Ammunition for non-standard firearms is the responsibility of the individual officer. All ammunition for non-standard firearms must meet the requirements of the Chief Firearms Officer.

Officers will load their firearms with and carry on their person only ammunition specifically approved by the Chief Firearms Officer.

(10) Storage of Utility Firearms in police vehicles.

- a. Only Denver Police Department authorized and/or issued utility firearms shall be carried in police vehicles for use by officers in the performance of their official police duties.
- b. Department authorized utility firearms shall be carried in the police vehicle in accordance with the OMS 105.06(7)b, 105.08(2), and 108.08(3)
- c. To ensure that all firearms are kept secure when officers are off duty or their police vehicle is not in use, department authorized utility firearms (including less lethal) will be stored in the following manner:
  1. Department issued utility firearms will either be stored in a locked rack inside the police vehicle passenger compartment, in a trunk, mounted rack, or stored, unloaded, in a police facility armory, gun locker, or in a safe and secure manner at the officer's residence when off duty. If firearms are left unattended in a vehicle when the officer is off duty (i.e. at an off-duty job) and the firearm is not secured in a department supplied rack, it is the officer's responsibility that the firearm is out of sight and secured in a manner that will not allow access by an unauthorized third party.
  2. Personally owned and authorized rifles or shotguns will not be left in any unattended vehicle while the officer is off duty and will be stored at all times while off duty or on duty in a locked storage device or locker.
- d. Department issued utility firearms are the responsibility of the officer to whom the weapon is issued.

(11) Storage of any department authorized firearm

- a. Officers must ensure that all personally owned, department authorized firearms, including any firearm used on or off-duty, are kept secure at all times.

**105.08 Firearms Section**

- (1) The Firearms Section commander shall be in charge of the Firearms Section and all its facilities. This officer will also be known as the Chief Firearms Officer.
- (2) The Assistant Chief Firearms Officer shall be a supervisory position assigned to the Firearms Section.
- (3) Firearms Training Officers. These individuals shall be chosen from the ranks of 1<sup>st</sup> grade patrol officer, technician or detective. This position will carry the rank of technician, and will be assigned to the Firearms Section.
- (4) Range Operations
  - a. Rules, regulations and procedures for operations at the Denver Police Department Firearms Section facilities shall be posted in a conspicuous place and be strictly adhered to at all times.
  - b. All firearms that are to be inspected and used at the Denver Police Firearms facilities will be unloaded and cleared in the area provided outside the entrance doors to the range.
  - c. Clean firearms policy. All firearms to be used on the Denver Police Firearms facilities will be cleaned prior to inspection by Firearms Section personnel before being fired. In addition, all firearms will also be cleaned immediately after being fired. This cleaning procedure will be

completed in the area provided. The *shoot slip* will be issued only after the firearm is re-inspected by the firearms personnel. (Officers are strongly urged to wash their hands after cleaning their firearm and prior to returning to duty.)

- d. All visitors must be accompanied by a Denver Police Department officer and shall be governed by the posted rules and regulations. No children are allowed in range facility without prior approval from the Chief Firearms Officer or designee.
- e. Any person who is not a member of the Denver Police Department must have written permission from the Chief of Police or his designee and the Chief Firearms Officer before being permitted to use these facilities.
- f. All officers shall wear ear and eye protection when shooting on the firing line. In addition, officers within the firing area are required to wear ear and eye protection.

(5) Firearms Proficiency

- a. The minimum firearms qualification requirements are as follows:
  - 1. All police officers at the rank of sergeant and below are required to shoot once during each shoot quarter and achieve a passing score on the course of fire specified by the Firearms Section.
  - 2. All command officers (lieutenants and above) are required to shoot biannually, in two separate quarters, and achieve a passing score on the course of fire specified by the Firearms Section.
  - 3. Officers may shoot more frequently, but must be **on duty**, if not shooting for a required qualification. Overtime is not authorized for additional, non-required shoot time.
- b. Any Officer who, for any reason, fails to attend the above listed required firearms training during any quarter, or biannual shoot will be required to make up the missed shoot during the following quarter along with remedial training if deemed necessary by Firearms Section personnel. It is the officer's responsibility to make necessary arrangements.
- c. Any officer who, for any reason (including injury, illness, suspension, extended training, leave of absence, etc.), is absent from two or more shoot quarters, or one biannual shoot will attend remedial training if the officer fails to qualify upon their return.
- d. An unexcused failure to shoot for qualification as required and described in 105.08(5) shall constitute a violation of this section with the following penalties:
  - 1. First violation will result in a fine of one (1) day.
  - 2. Second violation within twelve (12) consecutive months will result in the fine of (3) days and attendance at Remedial Training.
  - 3. The Chief of Police or his designees may view an officer having three (3) unexcused violations within any five (5) consecutive years as a chronic offender. Discipline of chronic offenders shall be imposed separate and apart from the provisions of OMS 105.08 (5) b.1 or 2, and the penalty therefore may be imposed, based on the officer's entire history of failing to shoot for qualification.
- e. After each shoot quarter and annually reports will be generated by the Firearms Section delineating the following:
  - 1. Officers who failed to attend.
  - 2. Officers who failed to qualify.
- f. Remedial Training
  - 1. Officers failing to qualify during any regularly scheduled shoot quarter or during a biannual shoot will be required to attend remedial training conducted by the Firearms Section, until such time as they can qualify.
  - 2. Remedial training sessions will include firearms safety rules, positions, sight alignment, trigger control, and grip.

3. The Chief of Police will be advised of officers failing to qualify with an approved handgun after attending two (2) training sessions.
- g. Passing score for each shoot quarter is 80% of the approved course.
- h. Prior to carrying any departmentally approved firearm, on or off duty, the officer must have passed proficiency testing during the previous twelve (12) calendar months with that firearm.
- i. The Chief Firearms Officer, with the approval of the Chief of Police, will establish proficiency testing courses appropriate to each authorized firearm. The Chief Firearms Officer shall maintain written records describing the course of fire. Such record shall contain a description of the target, scoring system, times allowed for each stage of fire, distance from the target and other pertinent conditions such as lighting, starting positions, firing positions, etc.

#### **105.09 Denver Police Utility Weapon Program**

- (1) The Denver Police Department authorizes the use of a .223 rifle and Remington 870 shotgun to be carried by certain officers in their normal duty assignment. The Firearm Purchase Authorization, DPD 30, will list the approved utility firearms allowed in the program.
  - a. The authorization to carry a utility weapon is a privilege and can be revoked at anytime, for any reason, by an officer's respective commander.
  - b. Blatant violations of this policy will result in revocation of the privilege to carry a utility weapon.
- (2) The utility weapon may be carried in the trunk of the police car. The rifle will be in a case with the chamber empty, bolt forward, magazine in the firearm, and the safety on. The shotgun will be in a case with the chamber empty, bolt forward, magazine loaded and the safety on.
- (3) Utility weapons may be carried in a vehicle weapon rack designed to fit that specific firearm. Carrying a utility weapon in a vehicle rack not designed for that specific weapon is not authorized.
- (4) Officers shall be selected and certified based on the following criteria:
  - a. Officers must have exhibited proficiency with a handgun, scoring ninety percent (90%) average or above for the previous one year period.
  - b. Officers must have completed their probationary period.
  - c. Officers must be recommended and approved by their commander. Selection within the patrol divisions will be monitored and approved by the deputy chief of operations, at the request of each district commander with consideration given to the equal distribution of departmentally owned/issued firearms across details one, two, and three.
  - d. Officers must attend and pass a mandatory training course to be conducted by range personnel.
    1. Urban Rifle – 40 hour operator's class
    2. Shotgun – 16 hour operator's class for officers hired after January 1, 2010.
  - e. Quarterly utility weapon and handgun proficiency shooting courses must be maintained at ninety percent (90%) yearly average or above.
    1. Officers who miss a quarterly qualification will notify his/her division/bureau commander, in writing, as to the reason for the missed qualification. Upon the approval of the division/bureau commander the officer will make-up the missed qualification during the next calendar quarter. Officers will not carry or deploy the utility weapon until the missed qualification is rectified.
    2. Officers who are on approved extended leave (i.e. military leave, light duty, suspension, leave of absence, or FMLA) and are unavailable for the required qualification will not carry a utility weapon. Upon the officer's return to full duty, he/she must qualify in the first available quarter prior to carrying or deploying a utility weapon. Supervisors will ensure compliance with this requirement.
    3. Officers will be removed from the utility weapon program and approval to deploy such

weapon will be rescinded under the following conditions:

- a. If an officer misses two (2) quarterly qualifications in a calendar year (January – December); or
  - b. If an officer misses two (2) consecutive quarters without the approval of his/her commander through the chain of command; or
  - c. If an officer fails to qualify within the first available quarter after his/her return from approved extended leave, as stated above in 2.
- (5) The Firearms Section will track and record all utility weapons, quarterly qualifications for authorized users/carriers. In addition, the Firearms Section will produce a quarterly qualifications report, no later than fourteen (14) days after the end of a quarter and forward the report to the and deputy chief of operations.
- (6) The formal updated training curriculum will be on file at the Firearms Section.
- (7) Officers would only deploy the utility weapon only under the following circumstances:
- a. At the direction of their supervisor; or
  - b. When an officer can clearly articulate a need; in which the deployment of a handgun might not be sufficient to neutralize the threat, or greater precautionary measures are deemed appropriate.
- (8) Officers deploying a utility weapon would function as a cover officer, with no other duties such as searching or handcuffing until the weapon is secured in the patrol car.
- (9) When an officer is transferred, promoted, leaves the department, or is no longer certified to carry a utility weapon, the department owned firearm assigned to that officer, along with the rifle sling, carrying case, extra magazine, magazine pouch, rifle cleaning kit, all ammunition, and any other issued rifle or shotgun equipment, shall be returned to the Firearms Section where it will be inventoried and stored until being reassigned.
- (10) Unassigned utility weapons will be stored at the Firearms Section until the next training class, when the firearm will be assigned to another officer, in order to replace utility weapon vacancies left in various assignments due to transfers, promotions, etc.

#### 105.10 Tactics Review Board

- (1) The primary function of the Tactics Review Board is to review those tactical situations or incidents reported on a Use of Force Report, an After Action Report, a Vehicular Pursuit Report, or a Police Vehicle Accident Report, where there is a possible deviation from department training, policy, or procedure. These do not include incidents reviewed by the Use of Force Review Board except as requested. The Tactics Review Board will conduct its review in order to determine compliance with existing policy and procedure; the need for revisions to policy, procedure, or training; proper management of the situation by supervision and command; and commendatory actions. The secondary function of the Tactics Review Board is to review and make recommendations on tactics under consideration by the department for adoption as a tactical option.

As used in this policy, the term tactics shall be defined as the strategies and techniques employed by officers designed to reduce risk to themselves or others in order to achieve a legitimate police goal. These shall include **but not be limited to** the elements of communication, vehicle operation, arrest control, crowd control, less-lethal force, firearms, search, movement, cover and concealment, and positions of peril.

- (2) Tactics Review Board Composition
- a. The non-voting chair will be the Commander of the Conduct Review Division.
  - b. The Deputy Chief of Administration shall select a department member with demonstrated experience in the area of police tactics and officer safety to serve as a non-voting advisor. This advisor shall also assist with the screening of reports for eventual review by the Tactics Review Board, and with research into tactics under consideration for adoption by the department as a tactical option.
  - c. The Chief of Police will appoint seven voting Tactics Review Board members with demonstrated experience in the area of police tactics and officer safety.

1. One member of the Tactics Review Board shall be from the rank of Police Officer First Grade, Corporal, Technician or Sergeant.
2. No more than two members may be appointed from outside of the department. These members must have superior knowledge and demonstrated ability in the areas of police tactics and officer safety.
- d. If any member of the Tactics Review Board is not able to attend a meeting, the Chief of Police or the Commander of the Conduct Review Division may appoint a temporary replacement for that meeting. This temporary board member shall meet the same requirements as other Tactics Review Board members.

(3) Case Selection

- a. The Deputy Chief of Administration or designee, shall screen all Use of Force Reports and After Action Reports. The Commander of the Conduct Review Division shall review all vehicular Pursuit Reports and police Vehicle Accident Reports.
- b. The Deputy Chief of Administration shall recommend a Tactics Board review of those cases in which there is any question regarding the tactics employed during the incident or where there is a possible deviation from department training, policy, or procedures.
- c. Cases involving the demonstration of innovative or superior tactics shall also be reviewed.
- d. The Chief of Police may also direct that the Tactics Review Board review a particular incident.
- e. Any supervisor or command officer may recommend a review of a particular incident by the Tactics Review Board.

(4) Tactics Review Board Procedures

- a. The Tactics Review Board will meet on an as needed basis as determined by the Commander of the Conduct Review Division.
- b. Witnesses may be requested to provide additional information to the Tactics Review Board
- c. All recommendations of the Tactics Review Board will be on the basis of a majority vote. Exception: in the case of a tie, the Tactics Review Board Chair shall cast the deciding vote.
  1. In the event of a case that has not already been reviewed by the Use of Force Board, recommendations by the Tactics Review Board for disciplinary action shall be forwarded to the Internal Affairs Division for investigation based on the facts of the alleged infraction.
  2. Recommendations for changes to policy or training will be forwarded to the Chief of Police.
  3. In the event of a case that has not already been reviewed by the Use of Force Board, recommendations by the Tactics Review Board for commendatory action will be forwarded to the involved officer's commander. The involved officers' commander, or his/her designee will then be responsible for the following:
    - a. Approve or reject the Tactics Review Board recommendation for a commendation.
    - b. If approved, complete and submit a formal request for commendation using procedures outlined in OMS 503.03.
  4. Recommendations for additional training of the involved officer(s) will be forwarded to the Chief of Police.
    - a. If deemed appropriate, the Chief of Police may forward the recommendation to the appropriate commander.
    - b. The involved officer's supervisor will ensure that the officer receives training on the tactic in question. This training will be coordinated with, but not necessarily given by, the academy training staff.
    - c. The supervisor will document specific details of the training on an Inter-Departmental Correspondence, DPD 200, and will make a Journal Entry that the training was administered.

- d. The Inter-Departmental Correspondence, DPD 200 and a copy of the Journal Entry will be retained in the officer's station personnel file and a copy forwarded to the Training Bureau for inclusion in the officer's training file.
- e. Cases that have come to the Tactics Review Board from the Use of Force Review Board via a request for an advisory opinion will be reviewed and recommendations made. Upon completion of its review, the Tactics Review Board will return the entire case, including recommendations, to the Use of Force Review Board. Recommendations for changes in policy or training will also be forwarded to the Chief of Police.

(5) Procedure for Submitting Proposed Tactics for Review and Consideration

- a. Department members who become aware of a technique or tactic that may be beneficial to the department; may request that it be considered by the department for adoption as a tactical option.
- b. The tactic should be fully described on an Inter-Departmental Correspondence, DPD 200. Included should be a list of other law enforcement agencies that employ the tactic, if any. Supporting documentation such as training materials, video demonstrations, or other law enforcement agencies' policies and procedures regarding the tactic, should be included when available.
- c. The packet of documentation will be forwarded through the chain of command to the Commander of the Conduct Review Division.- Copies **will** also be forwarded to the Academy training staff and the Department Less-Lethal Advisor.
- d. When the Tactics Review Board feels there were tactics employed in a situation under review that may warrant consideration by the department for adoption as a tactical option, they will be forwarded to the Training Bureau for assessment and recommendations.
- e. The Academy training staff and the Department Less-Lethal Advisor will review the information and give their written opinion regarding the proposed tactic to the Chief of Police.
- f. If approved, the Academy will develop and implement an appropriate training plan for the new tactic, including whether the training will be conducted by Academy training staff, at the division/bureau level, or by some other source.
- g. Officers trained in the new tactic will have the training documented in their training records.

(6) All records of the Tactics Review Board are confidential in nature and will not be disclosed to anyone without permission of the Chief of Police.

(7) Records of the Tactics Review Board will be retained by the Conduct Review Division.

**105.11 Crisis Intervention Team**

(1) **DEFINITION:** CIT is an innovative first responder model of police-based crisis intervention that combines community, health care and mental health advocacy partnerships. CIT is a program that provides the foundation necessary to promote community solutions to assist individuals with a mental illness.

(2) **PURPOSE:** The Crisis Intervention Training is a curriculum that provides officers with alternatives to incarcerating persons with mental illnesses that may be in crisis. The purpose of CIT is to reduce the incidents of violence, injury, and potential litigation. In addition to providing effective services to citizens within the City and County of Denver with mental illness, mental disabilities, or suicidal tendencies who are in crisis.

(3) **PROCEDURE:**

- a. Anytime a citizen or officer makes a request to have a CIT officer present, the dispatcher shall be notified of the request.
- b. Generally, CIT trained officers shall handle all CIT-related calls for service in the same manner as other calls for service. In addition, however, CIT officers shall:
  - 1. Be both allowed and encouraged to use as much time as they deem reasonable and necessary to successfully deescalate individuals who are in crisis.
  - 2. Use appropriate time and distance tactics to their advantage to successfully deescalate

individuals that are in crisis.

3. Use appropriate safety tactics to protect themselves and individuals who are in crisis, along with others that may be affected.
  - a. CIT officers shall use cover officers who are armed with less lethal and/or lethal weapons when appropriate.
  - b. CIT officers may use retreat as a positive tactic.
  - c. Once CIT officers are engaged in negotiations, they will be in control of the scene until relieved by a superior officer or department hostage negotiator.
  - d. CIT officers shall be permitted and encouraged to cross district boundaries to handle CIT related calls for service when needed.
  - e. CIT officers shall be dispatched to calls when the information received by the Communications Center indicates that mental illness, mental disabilities, or suicidal tendencies are present.
  - f. When available, CIT officers shall volunteer for calls for service that involve mental illness, mental disabilities, or threats of suicide.
  - g. CIT officers shall document all CIT incidents in the Records Management System (RMS) following the investigative and reporting procedures currently in place.
 

In addition to completing all required electronic and hand-written reports, CIT officers will complete a Street Check, DPD 305, in the MRE program that includes entity details about the subject and the text document utilizing the CIT template. After completing the Street Check, DPD 305, the CIT officers will send a brief MDT V-Mail message to the CIT Coordinator. ***(Refer to RMS Procedure Guide dated 03/07/2008 for instructions regarding the completion of this procedure.)***
  - h. If a CIT form is deemed necessary by the CIT officer, the call completion code CT will be entered in the CAD by the dispatcher upon notification by the CIT officer.
  - i. When circumstances warrant, CIT officers will follow-up with the person in crisis or the Mental Health agency to determine the outcome to establish whether further action is required.
  - j. CIT officers shall follow the procedures outlined in OMS 104.30.
    1. If the CIT officer develops information regarding a respondent's current mental health treatment program, which indicates a Mental Health Hold is not the best course of action; the CIT officer may make alternative arrangements for the disposition of the respondent, such as transport directly to a mental health provider.

(4) DEPLOYMENT OF THE CRISIS INTERVENTION TEAM AS NEGOTIATORS:

- a. When requested by the Incident Commander at the scene of a barricaded suspect or hostage incident, the dispatcher shall contact an on-duty CIT officer and have them respond.
- b. If needed, the CIT officer will begin and continue negotiations until relieved by a superior officer or the department hostage negotiators.
- c. At the request of the department hostage negotiators, a CIT officer may assist with ongoing negotiations.

(5) CIT DISTRICT COORDINATOR RESPONSIBILITIES:

- a. Insure that CIT officers complete CIT Data Collection Forms in the RMS per RMS Procedure Guide dated 03/07/2008.
- b. Liaison to disability and mental health providers in the District.
- c. Attend quarterly meetings with Department Coordinator and District CIT officers as needed.
- d. Assist the Department Coordinator with the selection and training of CIT officers.

(6) DEPARTMENT CIT COORDINATOR/ADMINISTRATOR RESPONSIBILITIES:

- a. Retrieve CIT Data Collection forms from the RMS, review, and follow-up as needed.
- b. Establish quarterly meetings with district CIT Coordinators.
- c. Liaison to all disability and mental health providers.
- d. Liaison to other CIT law enforcement agencies.
- e. Develop training and continuing education in concert with current best practices.
- f. Coordinate and facilitate all CIT training sessions and updates.
- g. Coordinate with district coordinators on follow-up investigations of calls for police service involving individuals having experienced an acute mental health crisis or suffering from mental health disorders.
- h. Provide guidance and resources to entities, both inside and outside the Denver Police Department, regarding both CIT program and law enforcement response to the mental health community.