

# **REVISED USE OF FORCE POLICY PROPOSED BY DPD UOF**

## **ADVISORY COMMITTEE**

### **(1) Purpose**

The Denver Police Department (“DPD”) exists to serve the needs of the people of Denver with its mission being to deliver high quality public safety services. The DPD recognizes the value and sanctity of all human life and is committed to respecting and protecting the dignity, safety, and civil rights of community members, including the right to be free from Inappropriate Force.

Although police officers may at times be required to make forcible arrests, to defend themselves or others, and to overcome resistance, the DPD’s goal, for the protection of both officers and the community, is to avoid using force when reasonably possible under the Totality of the Circumstances. Thus, officers must first explore and utilize non-force alternatives, when time and circumstances permit. Officers are expected to use language, demeanor, De-escalation, and Tactical Options that enhance safety and successful incident resolution, and to avoid unnecessarily escalating situations throughout the contact.

The Use of Force, especially Force likely to result in Serious Bodily Injury or death, impacts the entire community, including police officers. Accordingly, this policy embodies the community’s expectation and the DPD’s requirement that, when officers must use Force, all Uses of Force must be Reasonable and Necessary under the Totality of the Circumstances. Officers are permitted to use only the amount of Force necessary to safely accomplish a legitimate law enforcement function, when no reasonably effective alternative to the Use of Force exists. The authorization to use Force is an extraordinary power that must never be misused or abused. To that end, any DPD officer who observes another officer using Inappropriate Force is required to intervene to protect community members from Inappropriate Force.

While the Department is responsible for training officers on this policy, officers are individually responsible for understanding and complying with the provisions of the policy.

This policy is more restrictive than criminal and civil use of force standards under both state and federal law.

### **(2) Definitions**

- a. **Attempted Force:** Any attempt to use Force that does not make contact with an individual.
- b. **Carotid Compression Technique:** A technique used to incapacitate an individual by compressing the carotid arteries to diminish the supply of oxygenated blood to the brain, which can result in unconsciousness.
- c. **Chokehold:** The application of pressure to another’s throat or windpipe with sufficient pressure to make breathing difficult or impossible.
- d. **Chemical Agents:** Aerosol and gas munitions that contain an inflammatory substance, such as Oleoresin Capsicum (“OC”) spray and/or gel, etc., that causes swelling of the mucous membranes and a burning sensation to the eyes, face, and throat.

- e. **Conducted Electrical Weapon (“CEW”)**: A weapon, including electronic restraint devices and Tasers, primarily designed to discharge a chain of small electrical charges into an individual sufficient to cause uncontrolled muscle contractions and override the individual’s voluntary motor responses.
- f. **De-escalation**: Taking action or communicating verbally or non-verbally during a potential Force encounter in an attempt to stabilize the situation and to reduce the immediacy of the threat so that more time, options, and resources are available to resolve the situation without the Use of Force, or with a reduced level of Force; or reducing or ending a Use of Force after a threat has ceased or diminished.
- g. **Force**: Any physical contact of an individual by an officer either applied directly or through the use of a device or weapon.
- h. **Forty (40) mm Launcher**: Either a single round or multi-round launcher, department approved, with fixed stock and rifle barrel.
- i. **Forty (40) mm Projectile**: A projectile capable of being launched from a Forty (40) mm Launcher, whether or not it contains a Chemical Agent.
- j. **Imminent**: Ready to take place, impending, or at the point of happening.
- k. **Impact/Pain Compliance Device**: A device which can be used for striking an individual, or can be used to apply come-along/escort-compliance holds, including but not limited to, batons, riot batons, and Orcutt Police Nunchakus (“OPNs”).
- l. **Inappropriate Attempted Force**: Any attempt to use Inappropriate Force in which the Inappropriate Force does not make contact with a person.
- m. **Inappropriate Force**: Force that is not Reasonable and Necessary under the Totality of the Circumstances.
- n. **Injury**: Includes the following:
  - 1. **Physical or Bodily Injury**: Physical pain, illness, or any impairment of physical or mental condition.
  - 2. **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, or burns of second or third degrees.
- o. **Lethal Force**: The application of Force through the use of firearms or any other means reasonably likely to result in death under the Totality of the Circumstances, regardless of whether the Force does, in fact, result in death.
- p. **Less Lethal Device**: A device designed and intended to apply Force that is not likely to cause the death of an individual, including Chemical Agents, CEWs, Impact/Pain Compliance Devices, Less Lethal Shotguns, Forty (40) mm Launchers and Projectiles, and Pepper Ball Systems.
- q. **Less Lethal Shotgun**: Department approved twelve (12) gauge shotgun with a cylinder bore eighteen (18) inch barrel and, 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.
- r. **Pepper Ball System**: An air-powered launch device and projectiles that are plastic spheres filled with powdered or liquid Chemical Agents that burst on impact to release the Chemical Agent.
- s. **Reasonable and Necessary under the Totality of the Circumstances**: The standard governing all uses of Force by DPD officers.
  - 1. For purposes of this standard, the following definitions apply:
    - A. **Reasonable and Necessary**: When no reasonably effective alternative to the Use of Force is available to an officer under the Totality of the

Circumstances, only the amount of Force necessary to safely accomplish a legitimate law enforcement objective.

- B. **Totality of the Circumstances:** All of the facts and circumstances an officer knew, or reasonably should have known, but not conjecture or speculation, at the time of the Use of Force, based upon a continual reassessment of the situation including but not limited to the seriousness of the threat of Injury posed to the officer or other persons, the seriousness of the crime in question, and the officer's use or non-use of De-escalation techniques and/or Tactical Options, all viewed from the perspective of a reasonable officer on the scene.
- t. **Tactical Options:** Physical actions or maneuvers, including time, distance and cover, that are designed to increase the likelihood of safely handling a potential Use of Force situation while attempting to reduce the need for Force or the amount of Force necessary.
- u. **Turtling:** Defensive resistance involving a pronated subject pulling his or her arms to their chest to prevent access and control by an officer.
- v. **Use of Force:** See "Force" above.

### **(3) Resistance by an Individual**

- a. Types of Resistance: The following types of resistance represent ways in which an individual indicates unwillingness to comply with an officer's orders, obstructs an officer's attempt to have the individual comply, or physically attacks an officer or others:
  - 1. Psychological Resistance: Non-verbal cues in attitude, appearance, demeanor, or posture that indicate an unwillingness to cooperate, or comply, or a threat to the officer or another person.
  - 2. Verbal Non-Compliance: Verbal responses indicating an unwillingness to comply with an officer's directions or a threat to injure a person without the present ability to carry out the threat.
  - 3. Passive Resistance: Physical actions indicating an unwillingness to comply with an officer's directions but that do not prevent an officer's attempt to control an individual, including but not limited to a person who remains in a limp or prone position.
  - 4. Defensive Resistance: Physical actions that attempt to prevent an officer's control including "Turtling," flight, or attempt to flee, but do not involve attempts to harm the officer or others.
  - 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 Bodily Injury to an officer or any person is Imminent.
  - 6. Aggravated Active Aggression: A credible threat or overt act of an Imminent assault involving Lethal Force coupled with the present ability to carry out the threat or assault.
- b. Absent resistance by an individual, an officer is not authorized to use Force when an individual merely asks questions seeking clarification about an officer's actions and/or duties.

### **(4) Force Guiding Principles**

- a. This policy embodies legal standards, considerations of officer safety, and community expectations regarding when and how officers are authorized to use Force. Therefore, officers are only authorized to use Force that is consistent with this policy.
- b. All Force used by DPD Officers must be Reasonable and Necessary under the Totality of the Circumstances.

- c. Officers shall not use Inappropriate Force in making an arrest or in dealing with a prisoner or any other person.
- d. Officers shall not make threats of Inappropriate Force as a means of intimidation or to secure the cooperation of an individual.
- e. When an individual is non-resistive, engaged in resistance that is less than defensive resistance, or already restrained, officers shall not point a firearm or Less Lethal Device at the individual as a means of intimidation or to secure the individual's cooperation.
- f. When time and circumstances permit, individuals shall be afforded the right to surrender without being subjected to Force other than *De Minimus* Force (as that term is defined in § (22) – Use of Force Reporting) associated with being arrested and handcuffed.
- g. The use of Inappropriate Force may subject officers to discipline. In addition, the department may require additional training, or other collateral consequences as permitted by department policy. Inappropriate Force may also subject the officer to criminal and/or civil liability.
- h. When time and circumstances permit officers shall provide a warning before engaging in the Use of Force by:
  - 1. Identifying himself/herself as an officer;
  - 2. Giving the command(s) to be followed;
  - 3. Affording the person a reasonable opportunity to comply with the command(s); and
  - 4. Stating the intention to use Force if the person does not comply with the command(s).
- i. Officers shall not engage in actions that precipitate or escalate the need to use Force because of tactical, strategic, or procedural errors that place themselves or others in jeopardy.
- j. Officers shall not use Force on an individual who is only verbally confrontational and does not impede a legitimate law enforcement function.
- k. Whenever an officer who is not CIT trained learns (through his/her observations or otherwise) that a person with whom the officer is dealing may be mentally ill, developmentally disabled, or emotionally disturbed, the officer shall, when time and circumstances permit, use De-escalation techniques and/or Tactical Options, and promptly call for assistance by CIT-trained officers.
- l. Force shall not be used to punish, degrade, humiliate, retaliate or discriminate against, improperly coerce, or unnecessarily or unreasonably cause pain or Injury to an individual.
- m. Force shall be decreased as resistance and the threat level to officers and/or others decreases.
- n. Considerations regarding an individual's non-compliance:
  - 1. There may be many reasons, including a person's physical and/or mental state, that an individual may fail to comprehend the gravity of the situation and/or may not be complying with officer commands.
  - 2. An individual's failure to comprehend does not constitute resistance. When time and circumstances permit, officers shall consider possible reasons an individual may be failing to comply, including but not limited to:
    - A. A medical condition;
    - B. Physical impairment, such as being hearing impaired or physically disabled;
    - C. A developmental disability;
    - D. The individual's age and/or maturity level, children for example;
    - E. A language barrier;
    - F. A mental health or emotional crisis;

- G. Fear; and
  - H. Drug/alcohol impairment.
3. When situations occur that involve an elevated risk of physical resistance or danger to officers and, when time and circumstances permit, officers shall request the assistance of a supervisor. Supervisors shall attempt to respond promptly to assist with successfully and safely resolving those situations.

## **(5) De-escalation and Tactical Options**

- a. The DPD and the community recognize the need for both officers and community members to have safe interactions, and that at times officers may need to use Force to achieve legitimate law enforcement objectives (including self-defense). However, many situations may be resolved more safely for both the officers and the community without using Force. Therefore, the community expects, and the DPD requires, that, when time and circumstances permit, prior to using Force, officers shall use De-escalation and/or Tactical Options in an attempt to resolve a situation without using Force or with a reduced level of Force.
- b. De-escalation techniques and Tactical Options include but are not limited to:
  - 1. Cautiously responding to a threat or potential threat, being aware of surrounding circumstances, and avoiding rushing into a situation unnecessarily;
  - 2. Effectively communicating with the individual and other involved officers;
  - 3. Using command presence, advisements, warnings, verbal persuasion or verbal judo, and/or crisis intervention techniques;
  - 4. Establishing a position that allows officers to more safely engage and react to a threat or potential threat;
  - 5. Withdrawing to a more tactically secure position to increase the use of time, distance, and cover;
  - 6. Permanently or temporarily withdrawing from the confrontation when reasonable under the Totality of the Circumstances;
  - 7. Using existing obstructions or placing obstructions between the officer and the threat or potential threat;
  - 8. Slowing down or stabilizing a situation so that officers can request more options and resources to resolve the incident, including CIT officers and/or officers equipped with Less Lethal Devices;
  - 9. Approaching or engaging a threat or potential threat from a position which limits the threatening individual's view of the responding officer; and
  - 10. Any other verbal or non-verbal strategies designed to encourage voluntary compliance.

## **(6) Duty to intervene**

- a. Any officer who observes Inappropriate Force or Inappropriate Attempted Force by any other law enforcement officer shall, when reasonable under the Totality of Circumstances, intervene to protect the individual and to prevent or stop the Inappropriate Force.
- b. Any officer who witnesses Inappropriate Force or Inappropriate Attempted Force by any other law enforcement officer shall report it immediately to a supervisory or command officer, and report the incident in writing in accordance with § (22) – Use of Force Reporting, of this policy.
- c. Retaliation Prohibited: Officers shall not retaliate against, or threaten to retaliate against, any officer or other person who intervenes to stop or report the use of Inappropriate Force or Inappropriate Attempted Force.

## **(7) Determining Whether to Use Force and the Using Only the Amount of Force Necessary**

- a. Every Use of Force must be Reasonable and Necessary under the Totality of the Circumstances.
- b. In determining whether to use Force, and what level of Force to use, officers will rely on this policy, and their training and experience (to the extent the training and experience is consistent with this Use of Force Policy), the availability of De-escalation and Tactical Options, and a continual process of assessing and reassessing the situation.
- c. Factors to be considered regarding whether officers should use Force, and if so, the amount of Force to employ, include but are not limited to:
  1. The opportunity to avoid the Use of Force by attempting to safely use De-escalation techniques and Tactical Options;
  2. The severity of the crime at issue;
  3. Whether the individual poses an Imminent threat to the safety of officer(s) or others, including the individual's physical ability, size, age, and strength;
  4. Whether the individual is resisting arrest and, if so, the level of resistance;
  5. Whether the individual's mental capacity or physical condition, such as level of intoxication, physical impairment, or altered mental state impairs his/her ability to understand the gravity of the situation and/or comply with commands;
  6. The proximity of weapons available to the individual;
  7. Environmental factors such as:
    - A. Proximity to innocent bystanders who may be injured;
    - B. The presence of persons likely to interfere;
    - C. Lighting, weather conditions, physical obstructions, and other physical conditions that impact the officer's and/or the suspect's ability to see, hear, etc.
  8. Availability of cover officers and/or additional resources; and
  9. Whether a person is unresponsive and the reasons for that unresponsiveness.
- d. Force and control options include:
  1. Command presence;
  2. Voice;
  3. Hand control/restraint techniques;
  4. Chemical Agents;
  5. Hand strike, leg thrust/kick;
  6. Impact/Pain Compliance Devices;
  7. RIPP™ restraint devices;
  8. CEWs;
  9. Less Lethal Shotgun, Forty (40) mm Launcher and Projectile, Pepper Ball System;
  10. Police service dogs; and
  11. Lethal Force.

- e. In choosing a Force response, an officer is not required to attempt to select or exhaust each Force option before moving to the next level of Force as long the officer uses only the amount of Force necessary to safely accomplish a legitimate law enforcement objective under the Totality of the Circumstances.
- f. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, only the amount of Force, if any, needed to maintain control under the Totality of the Circumstances, shall be used.

## **(8) Less Lethal Device Guiding Principles**

- a. As with all uses of Force, each use of a Less Lethal Device is authorized only when Reasonable and Necessary under the Totality of the Circumstances.
- b. Less Lethal Devices are used to interrupt an individual's threatening behavior so that officers may take physical control of the individual with less risk of Injury to the individual or officer than would be created by more serious force applications.
- c. When a Less Lethal Device has been used and the subject has been incapacitated, officers shall attempt to secure the individual as soon as possible in order to minimize the need to use the Less Lethal Device again.
- d. When using a Less Lethal Device, officers are authorized to use only DPD approved Less Lethal Devices, unless the officer is authorized to use Lethal Force in accordance with § (15) – Use of Lethal Force Against a Person, of this policy.
- e. Only officers trained in the use of a Less Lethal Device are authorized to use that Less Lethal Device, unless the officer is authorized to use Lethal Force in accordance with § (15) – Use of Lethal Force Against a Person, of this policy.
- f. When time and circumstances permit, an officer shall provide a warning before using a Less Lethal Device by:
  - 1. Identifying himself/herself as an officer;
  - 2. Giving the command(s) to be followed;
  - 3. Affording the person a reasonable opportunity to comply with the officer's command(s); and
  - 4. Stating the intention to use Force if the person does not comply with the command(s).
- g. Officers shall not playfully or maliciously display, or intentionally misuse any Less Lethal Device.
- h. Officers shall not use any Less Lethal Device as a tool of punishment.
- i. Use of a Less Lethal Device in a situation which, considering the Totality of the Circumstances, is reasonably likely to result in death constitutes Lethal Force, and is prohibited unless the officer is authorized to use Lethal Force in accordance with § (15) – Use of Lethal Force Against a Person, of this policy. Examples include, but are not limited to:
  - 1. When an individual is in an elevated position where a fall is reasonably likely to cause death;
  - 2. In a location where it is reasonably likely an individual could drown; and
  - 3. When an individual is operating a motor vehicle, motorcycle, or scooter and the engine is running, or is on a bicycle in motion.
- j. Use of a Less Lethal Device against an individual whom the officer knows, or reasonably should know, is physically vulnerable or frail, such that the use of the Less Lethal Device is reasonably likely to result in death, considering the Totality of the Circumstances, constitutes Lethal Force, and is prohibited unless the officer is authorized to use Lethal Force in accordance with § (15) –

Use of Lethal Force Against a Person, of this policy. Examples include but are not limited to use of a Less Lethal Device against:

1. Young children (age 12 and under);
  2. Pregnant women;
  3. Disabled individuals;
  4. Elderly persons (age 70 and over); and
  5. Individuals in apparent medical crisis.
- k. Less Lethal Devices may be used to incapacitate a person who is an immediate danger only to himself/herself when the person cannot be safely controlled with a lesser amount of Force or verbal commands.
- l. When an officer uses a Less Lethal Device on an individual who is subsequently housed in a DPD holding cell or jailed, the officer will notify facility personnel that the Less Lethal Device was used on the individual.
- m. Officers shall provide first aid to individuals on whom a Less Lethal Device is used and summon medical assistance, in accordance with § (19) – Responsibility to Provide Medical Attention, of this policy.

## **(9) Chemical Agents – Aerosol and Gas Munitions:**

- a. Chemical agents – Aerosol and Gas Munitions are authorized:
1. On an individual engaged in defensive resistance, active aggression, or aggravated active aggression.
  2. Unless being used in accordance with the DPD Crowd Management Manual, to be directed only at a specific individual(s) and in a manner that minimizes exposure to non-targeted individuals.
  3. To quell rioting or to disperse unlawful crowds in accordance with the DPD Crowd Management Manual, and when other means would be more intrusive or less effective under the Totality of the Circumstances.
  4. To ward off threatening dogs and other animals.
- b. Chemical Agents – Aerosol and Gas Munitions are prohibited:
1. On an individual engaged in psychological intimidation, verbal non-compliance, or passive resistance.
  2. On an individual who is handcuffed, unless the individual is engaged in active aggression or aggravated active aggression, and lesser control options would be ineffective or have been tried and failed.

## **(10) Impact/Pain Compliance Devices**

- a. Impact/Pain Compliance Devices are authorized:
1. To apply come-along/escort/pain compliance techniques, but not strikes, to an individual engaged in verbal non-compliance, passive resistance, or defensive resistance.
  2. To strike an individual engaged in active aggression or aggravated active aggression.
- b. Impact/Pain Compliance Devices are prohibited:
1. To strike an individual who is only engaged in psychological intimidation, verbal non-compliance, passive resistance, or defensive resistance.



2. To target the head, neck, throat, spine, groin/genital area, kidneys, chest/breast or known pre-existing Injury areas of an individual, unless Lethal Force is authorized in accordance with § (15) – Use of Lethal Force Against a Person, of this policy.
3. When using a firearm as an Impact/Pain Compliance Device, unless the officer is authorized to use Lethal Force in accordance with § (15) – Use of Lethal Force Against a Person, of this policy, for the following reasons:
  - A. The inherent danger of an accidental discharge endangering the officer or bystanders;
  - B. The firearm may be an ineffective Impact/Pain Compliance Device due to its construction and weight; and
  - C. The risk that the officer will lose control of his/her weapon.
4. When using improvised Impact/Pain Compliance Devices, such as flashlights or other objects, except as follows:
  - A. The officer is authorized to use an Impact/Pain Compliance Device pursuant to this policy; and
  - B. The circumstances are such that it is neither safe nor feasible for the officer to use another department approved Impact/Pain Compliance Device; and
  - C. In a manner that is otherwise consistent with this policy.

## **(11) Conducted Electrical Weapons (CEWs)<sup>i</sup>**

### **a. Use of CEWs is authorized:**

1. To incapacitate an individual engaged in active aggression or aggravated active aggression when lesser Force options or verbal commands would be ineffective under the Totality of the Circumstances, except that:
  - A. After applying one CEW cycle, defined as lasting up to five seconds, officers shall reevaluate the situation to determine if an additional cycle would be effective against an individual who is still engaged in at least active aggression.
  - B. If a subject is no longer engaged in at least active aggression, the subject shall not be subjected to additional cycles.

### **b. Use of CEWs is prohibited:**

1. When an individual is engaged in psychological intimidation, verbal non-compliance, passive resistance, or defensive resistance.
2. To target an individual's head, neck, throat, spine, groin/genital area, kidneys, chest/breast, or known pre-existing Injury areas, unless Lethal Force is authorized in accordance with § (15) - Lethal Force Against a Person, of this policy, and under the Totality of the Circumstances lesser force alternatives would be ineffective.
3. In any environment where an officer reasonably believes that a flammable, volatile, or explosive material is present, including but not limited to gasoline, natural gas, propane, or alcohol based Chemical Agents such as Oleoresin Capsicum spray/gel that have been deployed.
4. When used to apply more than three cycles (or fifteen seconds) against an individual, as multiple applications or continuous cycling of a CEW may increase the risk of serious Injury or death.
  - A. If after three cycles (or fifteen seconds) of a CEW an individual continues to resist, De-escalation, Tactical Options, or use of another Less Lethal Device

shall be used where Reasonable and Necessary under the Totality of the Circumstances.

5. By multiple CEWs at the same time on the same individual.

## **(12) Less Lethal Shotgun, Forty (40) mm Launchers and Projectiles, and Pepper Ball Systems<sup>ii</sup>**

- a. Less Lethal Shotguns, Forty (40) mm Launchers and Projectiles, and Pepper Ball Systems are authorized:
  1. To incapacitate and safely take into custody an individual when:
    - A. The individual is engaged in active aggression or aggravated active aggression; and
    - B. Other force options would be inappropriate or ineffective under the Totality of the Circumstances; and
    - C. It is necessary in order to avoid the use of Lethal Force.
- b. Less Lethal Shotguns, Forty (40) mm Launchers and Projectiles, and Pepper Ball Systems are prohibited:
  1. On an individual who is only engaged in psychological intimidation, verbal non-compliance, passive resistance, or defensive resistance.
  2. To target an individual's head, neck, throat, spine, groin/genital area, kidneys, chest/breast, or known pre-existing Injury areas, unless Lethal Force is warranted in accordance with § (15) - Lethal Force Against a Person, of this policy, and under the Totality of the Circumstances lesser force alternatives would be ineffective.
  3. To target any of the following individuals unless Lethal Force is authorized in accordance with § (15) – Use of Lethal Force Against a Person, of this policy:
    - A. Individuals who are handcuffed or restrained; or
    - B. Individuals who the officer knows, or reasonably should know, are physically vulnerable or frail, for example:
      - i. Young children (age 12 and under);
      - ii. Pregnant women;
      - iii. Disabled individuals;
      - iv. Elderly persons (age 70 and over); and
      - v. Individuals in apparent medical crisis.
  4. 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 Launchers or Pepper Ball Systems.

## **(13) Police Service Dogs**

**(Note:** *The DPD Use of Force Advisory Committee recommends the following principles -that incorporate best practices, community expectations, and the philosophies of this Use of Force policy- be incorporated into the DPD policy governing Police Service Dogs:)*

- a. Use of a canine to apprehend a suspect is authorized only when Reasonable and Necessary under the Totality of the Circumstances.
- b. Off-leash canine deployments to apprehend a suspect shall be limited to instances in which a suspect is wanted for a violent offense, or in which an officer has a reasonable belief that the

suspect is armed with a weapon, or poses a significant risk of death or Serious Bodily Injury to the officer or others.

- c. In the case of known or suspected juvenile suspects, special consideration should be given to the suspect's age and when time and circumstances permit, officers shall explore alternatives to the deployments of a canine.
- d. Canines should not be used to apprehend anyone suspected to be under the influence of drugs or alcohol if no other serious crime is involved. Canines should not be used to apprehend those who are mentally disturbed, disabled, or physically vulnerable or frail if no violent crime is involved.
- e. Canine handlers shall keep canines within visual and auditory range during deployments at all times, except when a canine clears a threshold (e.g., rounding a corner, entering a room, ascending/descending a stairwell), in which case the handler will regain sight and hearing of the canine as quickly as possible.
- f. Supervisory approval is required prior to off-leash deployment of canines. The approving supervisor shall not serve as the canine handler during the course of deployment.
- g. Canine handlers shall issue verbal warnings that a canine will be deployed and that the suspect should surrender, unless providing such warnings would create an imminent threat of danger to the canine handler or any other person on the scene, and suspects shall be provided an opportunity to surrender.
- h. Handlers will not allow a canine to engage, seize, or extract a suspect if a lower level of force can reasonably be expected to control the suspect or allow for apprehension.
- i. When a canine apprehends a suspect by biting, the handler will call the canine off the first moment the canine can be safely released.
- j. Immediately upon securing an individual who has been bitten, officers on scene shall render first aid and summon medical assistance in accordance with § (19) – Responsibility to Provide Medical Attention, of this policy.
- k. For each canine apprehension officers shall report the apprehension and include why use of canine apprehension was Reasonable and Necessary under the Totality of the Circumstances.
- l. Only officers who have successfully completed approved training and are current in their certification and ongoing training requirements can serve as handlers, and only dogs that meet their certification requirements can be deployed.
- m. Canine handlers will be certified annually by a nationally recognized trainer or organization whose standards are consistent with the law, DPD policy, and best practices.

#### **(14) Carotid Compression Technique and Chokeholds**

- a. The Carotid Compression Technique and Chokeholds are authorized only where Lethal Force is authorized in accordance with § (15) – Use of Lethal Force Against a Person, of this policy.
- b. Following the use of the Carotid Compression Technique or Chokehold, officers shall render first aid and immediately summon medical assistance in accordance with § (19) – Responsibility to Provide Medical Attention, of this policy.
- c. Officers shall monitor the subject until medical assistance arrives.

#### **(15) Use of Lethal Force Against a Person**

- a. General Principles Regarding Lethal Force Against a Person
  - 1. When time and circumstances permit, an officer shall provide a warning before engaging in the use of Lethal Force by:

- A. Identifying himself/herself as an officer;
  - B. Giving the command(s) to be followed;
  - C. Affording the person a reasonable opportunity to comply with the officer's command(s); and
  - D. Stating the intention to shoot or otherwise use Lethal Force if the person does not comply with the command(s).
- b. Authorized use of Lethal Force against a person:
  - 1. An officer is justified in using Lethal Force upon another person only when it is Reasonable and Necessary under the Totality of the Circumstances:
    - A. To defend himself/herself or a third person from what the officer reasonably believes to be the use, or Imminent use, of Lethal Force.

***(The committee recommends the department select one of the following:)***

- B. *To effect the arrest or to prevent the escape from custody of a person posing an immediate threat of death or Serious Bodily Injury to the officer or others.*
  - Or*
  - B. *To effect the arrest or to prevent the escape from custody of a person who the officer knows:*
      - i. *Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; and*
      - ii. *Poses an immediate threat of death or Serious Bodily Injury to the officer or others.*
- c. Prohibited use of Lethal Force against a person:
  - 1. On an individual who presents a danger only to himself/herself.
  - 2. On an individual whose actions only threaten property.

## **(16) Use of Firearms**

- a. Guiding Principles
  - 1. Officers shall not un-holster or display a firearm unless the circumstances create a reasonable belief that Lethal Force may become necessary, as doing so may:
    - A. Limit an officer's alternatives in controlling a situation;
    - B. Create unnecessary anxiety on the part of the public; or
    - C. Result in an unwarranted or unintentional discharge of the firearm.
- b. Discharge of firearms is authorized:
  - 1. In accordance with the provisions of § (15) – Use of Lethal Force Against a Person, of this policy;
  - 2. To participate in authorized training;
  - 3. To participate in any authorized competition or legitimate sporting activity;
  - 4. In accordance with OMS 104.38, to kill a vicious or dangerous animal that is an immediate danger to life, or in accordance with C.R.S. § 35-42-110 where an animal requires a humane ending to its suffering from serious Injury; and
  - 5. Where discharge of a firearm is not otherwise prohibited by law or this policy.

- c. Discharge of firearms is prohibited:
  - 1. Against a person where Lethal Force is not authorized pursuant to § (15) – Use of Lethal Force Against a Person, of this policy;
  - 2. Where there is a likelihood of death or Serious Bodily Injury to a person(s) other than the person(s) being targeted;
  - 3. As a warning or to gain attention;
  - 4. Solely to protect property;
  - 5. Against a person who presents a danger only to himself/herself; and
  - 6. At a moving vehicle, except in accordance with § (18) –Vehicle Contacts, of this policy.

## **(17) Physical Restraint During or After a Struggle**

- a. Officers shall make every effort to avoid using their bodies in a way that could restrict an individual's ability to breathe.
- b. When body weight is used in an attempt to control an individual who is resisting, officers shall immediately cease using body weight on an individual's back, head, neck, or abdomen once the individual is restrained.
- c. As soon as possible after an individual has been handcuffed, the individual should be turned onto his/her side or allowed to sit up. Officers shall make all reasonable efforts to ensure that the individual is not left in a prone position.

## **(18) Vehicle Contacts**

- a. Moving Vehicles
  - 1. Officers are prohibited from shooting at a moving or fleeing vehicle, or from a moving vehicle, unless Lethal Force is being used against an officer or another person present by means other than the moving vehicle for the following reasons:
    - A. Firing at a moving vehicle may have very little impact on stopping the vehicle; and
    - B. 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) and bystanders may be increased when the vehicle is either out of control or shots are fired into the passenger compartment.
  - 2. Officers shall not move into, or remain in the path of, a moving vehicle.
- b. Stopped/Stationary High-Risk Vehicle Contacts
  - 1. Police contacts with stopped/stationary high risk vehicles and with vehicles following a pursuit may present a heightened risk of danger to officers and others.
  - 2. When time and circumstances permit, prior to approaching the vehicle, officers shall use De-escalation and Tactical Options, including time, distance, cover and assisting officers, to minimize the amount of Force needed, or eliminate the need for Force altogether and safely resolve the situation.
  - 3. Upon approaching a vehicle following a pursuit or other high risk stop or contact, the officer shall not place himself/herself directly in front of or behind the vehicle until it is safe to do so and there is no longer a danger that the car will be put into motion.

## **(19) Responsibility to Provide Medical Attention**

- a. Officers shall request emergency medical services when required by policy or where the officer has come into contact with an injured individual and any delay in treatment could potentially aggravate the severity of the Injury, or when an officer has used Force greater than *De Minimis* Force and the subject complains of Injury.
- b. While awaiting emergency medical services, officers shall provide first aid (when appropriate) to their level of training, taking into consideration the following:
  1. The first priority of all officers is scene safety and mitigating any potential threats prior to providing first aid will remain the most important task, as once treatment begins, officers may quickly lose any tactical advantage due to the fact they will be kneeling, crouched or have their attention diverted during the assessment and rendering of first aid;
  2. Officers rendering first aid should use care not to aggravate any Injury; and
  3. Officers electing to participate in the optional Tactical Casualty Care for Law Enforcement Officers and First Responders (TCC) course are authorized to utilize the approved trauma and tourniquet kit distributed by the Department upon successful completion of the course(s).
    - A. If applied in the field, officers will document the use of the trauma kit within a street check.
    - B. In order to replace the contents of the trauma kit, officers will submit a DPD 200, identifying the replacement items requested, the CAD number of the incident and a copy of the street check, to the Deputy Chief of Administration's Chief of Staff. Once submitted, the officer will be provided instructions on how to receive the replacement items.
- c. Upon taking an individual into custody, arresting officers have the duty to exercise reasonable care for the prisoner's health and safety.
- d. Ingestion of Contraband/Dangerous Substances:
  1. The department's primary objective in dealing with individuals who are believed to be concealing or who have ingested narcotics in their mouth is the preservation of life. The secondary objective is to preserve and recover evidence whenever possible. Interacting with narcotics dealers or users comes with inherent risks. Users can often be desperate and their behavior can be very unpredictable. Safety, not the arrest of the suspect(s) or seizure of evidence, is the most important factor to be considered in these instances.
  2. Often, individuals fearing arrest will ingest or attempt to ingest controlled substances to avoid prosecution. Officers have a responsibility to ensure that individuals who face a potential medical emergency receive the necessary medical attention, regardless of the impact to any investigation. Consequently, experience has revealed that a person may be at risk if he/she chewed a narcotic for sufficient time to allow for ingestion (absorption) to occur, regardless of whether the narcotic was swallowed.
  3. Officers may not use Force solely to stop a person from swallowing a substance or to retrieve evidence from the person's mouth. Officers may use Force that is Reasonable and Necessary under the Totality of the Circumstances to take an otherwise resisting person into custody.
  4. When an officer believes that a person has ingested a narcotic, the officer will promptly call for an ambulance to assess and treat the individual.
  5. The officer should ask the person if he or she has swallowed a narcotic or is holding narcotics in his/her mouth and encourage an honest reply by explaining the serious consequences of swallowing narcotics, including the possibility of overdose or death.

These measures may save the life of the person who unknowingly places him or herself at serious risk of Injury or death due to overdose.

6. Potential signs of ingestion are:
  - A. Loss of consciousness;
  - B. Semi-consciousness;
  - C. Apparent trouble breathing;
  - D. Choking;
  - E. Profuse sweating;
  - F. Non-responsiveness (mental state);
  - G. Loss of mobility (inability to move or walk);
  - H. Vomiting;
  - I. Extreme hyperactivity;
  - J. Extremely violent behavior; and
  - K. Apparent imperviousness to pain.
- e. Any officer who comes into contact with a person displaying or claiming Injury will request medical attention and immediately notify a supervisor, when:
  1. Injury results from Force used by department personnel;
  2. The officer is in contact with a person with obvious injuries who may claim they resulted from the contact with the officer; or
  3. A person is subjected to the use of any Less Lethal Device.
- f. Medical treatment at the scene is generally the most appropriate response, though safety concerns may sometimes necessitate moving the individual to another location before treatment can occur. Medical personnel will determine whether further treatment is required.
- g. Only medical personnel will be allowed to remove probes from individuals shot with a CEW.
- h. Officers will advise responding medical personnel and personnel taking custody of an arrestee/detainee of any observations that indicate the subject is possibly under the influence of alcohol, a controlled substance(s), medical or emotional duress, or displaying possible symptoms of excited delirium (refer to training bulletin dated 2-14-2014).
- i. Arrestees 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 or other hospital for treatment.
- j. Officers will notify detention personnel of the nature of Force used when transferring custody of arrestees, as it is the policy of the Denver Sheriff Department to refuse custody of injured arrestees 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.

## **(20) Off-Duty/Secondary Employment**

- a. DPD officers are sometimes authorized to work off-duty/secondary employment consistent with OMS 114.00. This Use of Force Policy is in full force during off-duty/secondary employment, and officers working off-duty/secondary employment must comply with this policy.

## **(21) Body Worn Cameras and Use of Force**

- a. Body worn cameras are an important tool for ensuring compliance with this Use of Force policy and enhancing trust with the community regarding Uses of Force by Denver Police Officers. As such, when officers have been assigned body worn cameras, the cameras shall be activated for all Uses of Force (See OMS 119.04(3)).
- b. The failure to activate a body worn camera for a Use of Force may subject an officer to discipline. Repeated or intentional failures may result in more severe discipline up to and including termination (See OMS 119.04(12)).

*(Note: The DPD UOF Advisory Committee recommends the DPD adopt the following sections (22) through (26) as they contain provisions that are integral to Uses of Force consistent with the philosophies and Use of Force standards being recommended by this committee. The committee does not, however, have a preference regarding whether these sections are located with the preceding sections or located elsewhere in the Operations Manual.)*

## **(22) Use of Force Reporting <sup>iii</sup>**

- a. Officers, including officers working off-duty/secondary employment, shall immediately report the circumstances of all resistances or incidents involving a Use of Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force, to a supervisor or command officer.
- b. Levels of Force are categorized as follows;
  1. **De Minimis Force:** Use of hand controls, restraint techniques, or Impact/Pain Compliance Devices (when used only to apply come-along/escort holds) on an individual who is not resisting and/or that do not result in an individual indicating or expressing pain.
  2. **Tier I Force:**
    - A. Use of hand controls, restraint techniques, or Impact/Pain Compliance Devices (when used only to apply come-along/escort holds) on:
      - i. A subject who is resisting; and/or
      - ii. On a subject who indicates or expresses pain.
    - B. Pointing a firearm or Less Lethal Device at a person.
    - C. A Use of Force or Attempted Force with any Less Lethal Device including:
      - i. CEW;
      - ii. OC spray/gel or other Chemical Agent;
      - iii. Impact/Pain Compliance Device, used for strikes to the body other than use of Impact/Pain Compliance Device listed in Tier II Force below; or
      - iv. Less Lethal Shotgun, Forty (40) mm Projectile, or Pepper Ball System other than use of Less Lethal Shotgun, Forty (40) mm Projectile, or Pepper Ball System listed in Tier II Force below.
    - D. Deployment of Police Service Dogs whether or not there is resulting Bodily Injury or complaint of Bodily Injury; and
    - E. Use of Force or Attempted Force with hand strikes or leg kicks whether or not there is resulting Bodily Injury or complaint of Bodily Injury.
  3. **Tier II Force includes:**
    - A. Lethal Force or attempted Lethal Force, including but not limited to:



- i. Discharge of a firearm other than in training or for *bona fide* recreational purposes;
    - ii. Application of the Carotid Compression Technique or a Chokehold; and
    - iii. Striking an individual's head, neck, throat, spine, groin/genital area, kidneys or known pre-existing Injury with any Less Lethal Device (other than OC spray/gel).
  - B. Whenever an individual's head hits a hard object or surface (e.g., roadway, driveway, concrete floor, wall, door jamb, etc.) as a result of a Use of Force by an officer;
  - C. Any Use of Force that results in Serious Bodily Injury;
  - D. Any Use of Force that results in an individual being hospitalized;
  - E. Any Use of Force that results in an individual losing consciousness;
  - F. Injury or complaint of Injury to the head or neck resulting in medical evaluation or treatment as a result of a Use of Force by an officer (this does not apply to contamination due to OC spray/gel);
  - G. Use of Force or Attempted Force with any Less Lethal Device used in the following manner:
    - i. Against a vulnerable individual, including a young child (age 12 and under), a pregnant woman, a disabled individual, an elderly person (age 70 and over), or an individual who prior to the Use of Force was suffering from a medical crisis;
    - ii. When, considering the Totality of the Circumstances, use of the Less Lethal Device is reasonably likely to result in Serious Bodily Injury or death, such as when the application of Force could cause an individual to fall from an elevated position, or creates the substantial risk that an individual may drown.
  - H. Use of stop sticks for motorcycles; and
  - I. Any other Use of Force or Attempted Force, that is reasonably likely, considering the Totality of the Circumstances, to cause Serious Bodily Injury or death, regardless of whether Serious Bodily Injury or death occurs.
- c. The category of Force does not depend solely on the tool or technique used but depends instead on the Totality of the Circumstances, including the reasonable likelihood that pain or Injury will result. As an example, use of hand controls to guide a compliant arrestee into a car is generally *De Minimis*, but an officer using hand controls applying the same amount of force to push someone from an elevated position such that the person is reasonably likely to fall could be considered a higher level of Force.
- d. The Use of Force Report DPD 12 is required for any Use of Force and Attempted Force, (except *De Minimis* Force). This includes but is not limited to any of the following circumstances:
  - 1. All Tier I and Tier II Force;
  - 2. While in custody, a person receives Bodily Injury, Serious Bodily Injury, or dies. (See OMS 301.13, In-Custody Incident Investigations and OMS 301.14(8), In-Custody Death Investigations);
  - 3. 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;

4. Vehicle forced-stop methods (e.g., boxing in, heading off, ramming, PIT maneuver, road blocks). See OMS 204.01(3)(j);
5. Use of RIPP™ restraint devices;
6. An officer has an accidental discharge of a Less Lethal Shotgun, Pepper Ball System, Chemical Agent, or a CEW, other than in training, which occurs in view of the public or where members of the public are affected;
7. A defendant is charged with resistance 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; and
8. An officer witnesses any other officer use Inappropriate Force or Inappropriate Attempted Force on an individual.
- e. The primary involved officer and any other officer who participated in or witnessed the Use of Force will prepare a 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, suspects 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 Use of Force, Attempted Force, Inappropriate Force or Inappropriate Attempted Force which are not listed on the front of the form, including:
    - A. A description of what happened prior to the Use of Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force including, if known, the names of any officers who attempted to resolve the confrontation without Force, what steps each of those officers took to try to resolve the confrontation without using Force, and the responses of the individual(s) on the other side of the confrontation;
    - B. A detailed and specific description of the Use of Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force by the officer completing the report, including the officer's reasons for:
      - i. Using Force; and
      - ii. The amount and type of Force or Attempted Force.
    - C. A detailed and specific description of the Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force any other officer used, if observed;
    - D. Whether the officer intervened to stop the use of Inappropriate Force or Inappropriate Attempted Force and, if so, what the Inappropriate Force or Inappropriate Attempted Force was, and how the officer intervened;
    - E. What the officer observed concerning the actions of the individual on the other side of the confrontation at the time of, during, and after the Use of Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force;

- F. Whether the individual on the other side of the confrontation was known or appeared to be under the influence of any drug or intoxicant, or was known or appeared to be affected by any mental health issue or other cognitive issue;
- G. Whether anyone appeared to the officer completing the report to have suffered any physical injury and, if so, the name of each such individual, and a description of the Injury or Injuries observed;
- H. Whether any individual was provided medical treatment on the scene and, if so, by whom, if known;
- I. If medical treatment was not provided on the scene to any individual upon whom Force was used or who appeared to suffer an injury, the reason medical treatment was not provided, if known; and
- J. Any other information that the officer believes might be helpful to persons reviewing the Use of Force Report in determining what actions resulted in the Use of Force, or Attempted Force incident and whether the use of Force or Attempted Force complied with DPD policy.

### **(23) Annual Public Use of Force Reports**

- a. On or before April 30th each year, the DPD will report Use of Force statistics for the preceding year to officers, the Independent Monitor, and the public, and post such reports to the DPD's website.
- b. Such reports will include, at a minimum: the number of Force incidents for each of the last three calendar years, anonymous summary statistics of the number of incidents per officer, types of Force used, the rate or percentage of arrests in which Force is used (by police district and in total) for each of the last three years, the number and percentage of Force incidents recorded on police body worn cameras for each of the last three years, an aggregate comparison of Force levels used versus levels of arrestee resistance, an aggregate comparison of Force levels used versus the race/ethnicity of the subjects, and a breakdown of the Force incident count by race/ethnicity of officer and subject for each of the last three years.

### **(24) Death in Custody and Firearm Discharge Investigations <sup>iv</sup>**

- a. 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, or when a person in the custody of law enforcement in the City and County of Denver suffers a potentially life-threatening Injury or death resulting from, or in relation to, a law enforcement action, 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.
  - 1. The dispatcher will immediately follow Denver 911 procedures by notifying the following as required:
    - A. Ambulance;
    - B. Sufficient patrol coverage;
    - C. The on-duty command officer for the district of occurrence;
    - D. The on-duty homicide and/or general assignment detectives; and
    - E. The on-call Police Shoot Team including:
      - i. Major Crimes Section command officer;

- ii. Homicide Unit supervisor;
    - iii. Primary and secondary homicide investigators;
  - F. The Crime Laboratory;
  - G. The on-call District Attorney;
  - H. The Commander of the Major Crimes Division;
  - I. The Deputy Chief of Operations;
  - J. The Commander of the Internal Affairs Division;
  - K. The Public Information Officer;
  - L. The Chief of Police;
  - M. The Independent Monitor (when the officer discharging a firearm is a member of the DPD or Denver Sheriff Department or a Denver Fire Department Arson Investigator);
  - N. The Executive Director of Safety;
  - O. The involved officer's commander. If the officer has been injured or killed, this commander is responsible for notification of the officer's family; and
  - P. The Coroner's Office, in any case where death occurs.
- b. Procedures when handling person/officer wounded by gunfire:
1. 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 and immediately summon medical attention in accordance with § (19) – Responsibility to Provide Medical Attention, of this policy.
  2. 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.
  3. Remove the person/officer to the hospital by ambulance if any possibility of life exists.
  4. 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.
  5. When placing a hold order on a victim who is also a suspect in a crime, notify the Denver Sheriff Department.
  6. 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).
- c. The responsibilities of the ranking officer at the scene of an in-custody death include, but are not limited to, the following:
1. Assign an officer to make a General Occurrence Report (GO), titled known or unknown dead, depending on the status of the victim's identity.
  2. Assign an officer to accompany the person to the hospital when transporting a victim. This officer shall note any statements made by the person, take possession of clothing or other evidence, and protect personal property.
  3. Protect the crime scene using appropriate methods.

4. Determine what occurred through observations and officer and civilian witness statements.
  5. Ask general questions of the involved officer(s) limited to those necessary to locate and secure witnesses, evidence or the crime scene. The Commander of the Major Crimes Division or designee will determine the need for formal statements from any officer or witness.
  6. Provide the Denver 911 dispatcher and responding detectives with all available information.
  7. Assist and follow the directives of the ranking officer of the Major Crimes Division in compliance with Duties & Responsibilities section 13.12.
  8. Prepare an After Action report, DPD 286, sending a copy to the Homicide Unit. Attach a copy of the personnel detail(s) for all districts and other units covering the scene or assisting with the investigation.
  9. Ensure the completion of a Use of Force Report, DPD 12.
    - A. Use the front of the form to report the appropriate information. The narrative shall detail the incident.
    - B. Attach a copy of the After Action report, DPD 286, to the Use of Force report, DPD 12. Forward the original Use of Force report, DPD 12, to the Internal Affairs Bureau, with one copy to the Bureau/District Commander, the Commander of the Major Crimes Division, and one copy to the Commander of the involved officer(s).
  10. Ensure that all officers who respond to the scene or assist in any way submit individual statements detailing their duties and observations to the Homicide Unit prior to going off duty.
- d. The responsibilities of the ranking officer at the scene of a police shooting include, but are not limited to, the following:
1. Protect the crime scene using appropriate personnel and methods.
  2. Determine what occurred through civilian or officer witnesses at the scene. If there are no civilian or officer witnesses present, ask the involved officer(s) for general information that will indicate the area to protect and the evidence sought.
  3. 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.
  4. Ensure that the involved officer(s) 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.
  5. Assign a supervisory officer to sequester and transport the involved officer(s) 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.

6. Provide the dispatcher and responding detectives with all available information.
  7. Assist and follow the directives of the senior member of the Criminal Investigation Division in compliance with Section 14.12.
  8. Assign an officer to complete a General Offense Report (GO).
    - A. When an officer discharges his/her firearm and wounds a suspect or other person the title will be "Shooting by a Peace Officer."
    - B. When a suspect shoots and wounds an officer the title will be "Assault on a Peace Officer."
    - C. When the shooting results in the death of any person/officer the title is "Homicide."
    - D. 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.
    - E. Officers shall leave the suspect section blank and keep the narrative section brief.
  9. 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.
  10. Ensure the completion of a Use of Force Report (UOF) DPD 12:
    - A. Use the front of the form to report the appropriate information. The narrative on the reverse side may indicate, "See After Action Report."
    - B. 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.
  11. 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.
- e. Investigation of suicide and attempt suicide while in-custody.
1. Suicide or attempt suicide occurring in the officers' presence or while the law enforcement officer controls the incident follow procedures outlined here. Abbreviated procedures will occur at the discretion of the Commander of the Major Crimes Division or designee.
  2. Officers shall complete a General Occurrence Report (GO) as follows:
    - A. When the suicide is successful, title the report "Suicide."
    - B. When the suicide attempt is unsuccessful, title the report "Attempt Suicide."
- f. The investigation of an in-custody death or 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:
1. Completely process and document the crime scene using diagrams, photographs, and video recordings in accordance with crime scene protocols outlined in OMS 301.01.
  2. Investigators shall document statements as soon as practical following the incident. 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(s) usually occur last.

3. Consistent with the investigation procedures for non-DPD witnesses, following any officer-involved shooting or in-custody death, each involved officer shall be asked to voluntarily provide a statement to investigators prior to reviewing any audio or video recordings. After providing a statement, each officer may review footage from their own body worn camera and supplement their statement with additional information if necessary.
  4. The officer(s) involved in the incident 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.
  5. 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.
  6. Refer all media inquiries to the Commander of the Major Crimes Division or designee, or the Public Information Officer.
  7. The command officer in charge of the investigation will prepare, or cause the preparation, of an After Action Report (DPD 286) and distribute the report as appropriate prior to going off duty.
  8. The criminal charge filing decision for an in-custody death or 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.
- g. Considerations for the involved officer following the investigation of the In-Custody Death or Police Shooting
1. When death occurs, the officer will be removed from any line duty assignment, pending the results of an administrative review.
  2. 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.
  3. 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 OMS 105.17(g)(3). 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).

4. 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.
5. 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.

## **(25) Other Use of Force Investigations<sup>v</sup>**

- a. Following notification of a Use of Force, an officer's supervisor shall respond to the scene and shall personally contact the officer immediately after the incident.
- b. The supervisor will notify the Internal Affairs Division (IAD), which shall conduct the Use of Force investigation for:
  1. All Tier II Force;
  2. Any incident in which a defendant is charged with resistance and/or assault and a police officer is listed as the victim; and
  3. When any officer witnesses any other officer use Inappropriate Force or Inappropriate Attempted Force.
- c. IAD personnel will interview witnesses and subjects, collect evidence and take photographs when appropriate. IAD personnel 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.
  1. For each incident IAD is required to investigate, IAD personnel will conduct an independent and complete investigation and prepare and distribute written reports and documents. The minimum guidelines are described below.
    - A. IAD personnel's assessment as to whether 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.
    - B. Names and statements of all witnesses.
    - C. A narrative summary of any significant facts determined through investigation.
    - D. Make every reasonable effort to identify video (e.g., body worn camera, HALO, etc.) and 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.
  2. When investigating any incident involving deployment of the CEW, 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 CEW. Data from the CEW shall be downloaded into a computer file and the results shall be documented as part of the Use of Force investigation.
  3. 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 saved with the Internal Affairs Division.
  - B. One copy shall be forwarded to the office's Deputy Chief.
  - C. One copy shall be forwarded to the Office of the Independent Monitor.
  - D. One copy shall be forwarded to the Use of Force Review Board, which will classify the incident as in or out of policy.
- 4. Any IAD personnel who investigates any incident involving any officer engaged in off-duty/secondary employment must verify in TeleStaff that the officer was approved for off-duty/secondary employment and document the results.
- 5. IAD personnel shall not investigate incidents involving Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force in which they are personally involved.
- 6. If the involved employee is a member of the Denver Sheriff 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 statements if requested, however the reporting requirements will be the responsibility of Denver Sheriff personnel.
- 7. Procedures for processing juveniles involved in a resistance incident are detailed in OMS 403.01(9).
- d. For all incidents, including those involving Tier I Force, a non-involved supervisor from the involved command will interview witnesses and subjects, 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.
  - 1. 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.
    - A. The supervisor's assessment as to whether 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;
    - B. Names and statements of all witnesses;
    - C. A narrative summary of any significant facts determined through investigation;
    - D. Make every reasonable effort to identify video (e.g., body worn camera, HALO, etc.) and still photos that may contain evidence relevant to the investigation and document actions taken to obtain and preserve the evidence or the instruments that contain such evidence; and
    - E. The supervisor's conclusions that:
      - i. The Use of Force, employed tactics, and all reporting requirements were performed within policy; or
      - ii. 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.

2. When investigating an incident involving deployment of the CEW, 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 CEW. Data from the CEW shall be downloaded into a computer file and the results shall be documented as part of the Use of Force investigation.
3. 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.
  - D. One copy shall be forwarded to the Office of the Independent Monitor.
4. 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.
5. Any supervisory or command officer who investigates any incident involving any officer engaged in off-duty/secondary employment must verify in TeleStaff that the officer was approved for off-duty/secondary employment and document the results.
6. Supervisors and command officers shall not investigate Use of Force, Attempted Force, Inappropriate Force, or Inappropriate Attempted Force incidents in which they are personally involved (i.e., used Force, directed other officers to use Force, or witnessed the Use of Force).
7. If the involved employee is a member of the Denver Sheriff 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 statements if requested, however the reporting requirements will be the responsibility of Denver Sheriff personnel.
8. Procedures for processing juveniles involved in a resistance incident are detailed in OMS 403.01(9).

## **(26) Use of Force Review Board<sup>vi</sup>**

- a. The Chief of Police has established a Use of Force Review Board which will examine all incidents where:
  1. Serious Bodily Injury or death results from any officer-involved Use of Force;
  2. All firearm discharges by active members of the department, except those incidents described in § (16)(b)(2,3,and 4) - Use of Firearms, of this policy;
  3. Any in-custody death;
  4. All Use of Force incidents involving at least Level II Force that were investigated by IAD personnel; and
  5. Any incident as directed by the Chief of Police.
- b. 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.

1. The board may refer a case to the involved officer's commander for consideration of a commendation.
  2. The board may refer a case to the Tactics Review Board.
  3. 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.
  4. 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.
- c. 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:
1. The Use of Force Board shall review all reports, photographs, video tapes, statements, and other documents relating to the incident.
  2. The Use of Force Board is empowered to call any officer witnesses needed for further clarification.
  3. The Use of Force Board may invite any civilian witnesses needed for further clarification.
  4. The Use of Force Board may direct additional investigation to be conducted by those who completed the original report of the incident under review.
  5. 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.
  6. 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.
- d. Following full review of the Use of Force incident, the Use of Force Board has the following responsibilities:
1. 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. One (1) copy will be shared with the Office of the Independent Monitor.
  2. 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 and the Office of the Independent Monitor. If necessary, 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.
  3. 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.

4. The Use of Force Board may also make recommendations to the Chief of Police for any modification of department policy or training.
  5. Upon completion of its review the Use of Force Board may recommend that the involved officer(s) be considered for a commendation. The involved officer's commander or his/her designee will then be responsible for the following:
    - A. Approve or reject the recommendation for commendation made by the Use of Force Board, and;
    - B. If approved, complete and submit a formal request for commendation using procedures outlined in OMS 503.03.
  6. 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.
  7. 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.
- e. 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.
1. 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.
  2. Records of the Use of Force Review Board will be retained by the Internal Affairs Division.
- f. Board Membership and Responsibilities
1. 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.
    - A. 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 105.19(b)(3-4), and will notify the other board members.
    - B. 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 105.19(a-b).
    - C. 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.
  2. The voting membership of the Use of Force Review Board will be composed of the following persons:
    - A. The Commander of Major Crimes Division;
    - B. A designated rotating commander;
    - C. The Independent Monitor or his/her designee; and
    - D. Two community members trained and certified by the department.

3. 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.
4. Use of Force Board findings shall be by majority rule.
5. Community Board Members
  - A. One community member will be appointed by the Chief of Police, and one will be appointed by the City Council President.
  - B. Both community members shall be residents of the City and County of Denver.
  - C. The community member must have received training as designated by the Chief of Police, which at a minimum shall include instruction in:
    - i. The Denver Police Department Use of Force Policy. See OMS 105.
    - ii. Colorado State Statutes pertaining to the Use of Force by police officers.
    - iii. Hands-on training on all forms of the department's less-lethal alternatives.
    - iv. Overview of the Crisis Intervention Team (CIT) program.
    - v. Overview of De-escalation tactics and training.
    - vi. Overview of firearms training and policy.
  - D. Community representatives will be selected from a pool of qualified candidates and the Commander of the Internal Affairs Division will make the assignments at the discretion of the Chief of Police.
  - E. Each community member appointed to the Use of Force Review Board shall be limited to a term of five years.
6. Advisory Witnesses
  - A. The involved officer's division or bureau commander may be present for the hearing, but will not be a voting member.
  - B. 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.
  - C. Any additional persons may only be present at the discretion of the Chief of Police or the Commander of the Conduct Review Division.
- g. 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.
- h. 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.

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<sup>i</sup> This section relies on language from OMS 105.03(4)(d)(6).

<sup>ii</sup> This section relies on OMS 105.03(4)(d)(2), and OMS 105.03(4)(d)(5).

<sup>iii</sup> This section relies on language from OMS 105.02(1).

<sup>iv</sup> This section relies on language from OMS 105.04(1), 301.13(1), and 301.14(8).

<sup>v</sup> This section relies on language from OMS 105.02(1).

<sup>vi</sup> This section relies on language from OMS 105.06.