

<b>UCCS Police Department</b>  University of Colorado Colorado Springs	Policy and Procedure: 400 – 100	Page Number: 1 of 11
SUPERSESSON: July 31, 2015	<b>SUBJECT: Use of Force</b>	
<b>SECTION:400</b> Force, Detention, and Arrest		
<b>EFFECTIVE DATE: July 1, 2020</b>		
<b>APPROVED:</b> Marc Pino, Police Chief		

**I. PURPOSE:**

To establish policy and procedures for use of force by the UCCS Police Department

**II. CROSS REFERENCE:**

Policy and Procedure 300-118 Canine  
Policy and Procedure 400-101, Arrest and Detention  
Policy and Procedure 400-102, Firearms  
Policy and Procedure 400-103, Taser (CEW)  
Policy and Procedure 400-104, Active Shooter  
Policy and Procedure 400-105, Patrol Rifle  
Policy and Procedure 400-106, Less Lethal Shotgun  
Policy and Procedure 400-107, Officer-Involved Shootings, Deaths, or Grave Injuries  
C.R.S. 18-1-704 - 707, Use of physical force in defense of premises; Use of physical force in defense of property; and use of physical force in making an arrest or in preventing an escape  
C.R.S. 18-1-703, Use of physical force – special relationships  
C.R.S. 18-8-802, Duty to report use of force by peace officers  
C.R.S. 18-8-803, Use of excessive force  
C.R.S. 18-1-901, Definitions  
Graham v. Connor, 490 U.S. 386, 396 (1989), U.S. Supreme Court  
Montoute v. Carr, 114 F.3d 181, 11th Circuit Court of Appeals  
Plakas v. Drinski, 7th Circuit Court of Appeals  
Tennessee v. Garner, 105 S. Ct. 1694 (1985), U.S. Supreme Court

**III. DEFINITIONS:**

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

**CHOKEHOLD:** Means a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing or reduce intake of air. "Chokehold" also means applying pressure to a person's neck

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on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

**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 the second or third degree. C.R.S. 18-1-901(p).

**NON-DEADLY FORCE:** Any force, action, or weapon which produces a result that is necessary to control the actions of another and does not involve the use of deadly physical force.

**DEADLY PHYSICAL FORCE:** force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

**JEOPARDY:** A hazard, threat, or peril, or perceived hazard, threat or peril.

**CONDUCTED ELECTRICAL WEAPON (CEW):** Department approved, less-lethal device, which uses electronic energy to transmit NMI (neuromuscular incapacitation) or to cause pain stimulus to the body to impair muscular control.

**LESS LETHAL WEAPON:** Any object or material, when in the manner it is used or intended to be used is unlikely to result in death or serious bodily injury.

**OBJECTIVELY REASONABLE:** This is the term created by the Courts as the standard by which officer's actions will be evaluated in use of force situations. The United States Supreme Court, in **Graham v. Connor**, has ruled that because law enforcement officers are often forced to make split-second judgments about the amount of force that is necessary in a particular situation, in circumstances that are frequently tense, uncertain and rapidly evolving, the reasonableness of the officer's belief as to the appropriate level of force should be judged from the on-scene perspective and not by using the "20/20 vision of hindsight." The proper application of "objectively reasonable" requires "careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." *Id.*

**USE OF FORCE BY PEACE OFFICERS - DEFINITION.** (1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person. (2) when physical force is used, a peace officer shall: (a) not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense; (b) use only a degree of force consistent with the minimization of

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injury to others; (c) ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and (d) ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable. (2.5) (a) a peace officer is prohibited from using a chokehold upon another person. A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and: (a) the arrest is for a felony involving conduct including the use or threatened use of deadly physical force; (b) the suspect poses an immediate threat to the peace officer or another person; (c) the force employed does not create a substantial risk of injury to other persons. (4) a peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury, would create a risk of death or injury to other persons. (4.5) notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

**DUTY TO REPORT USE OF FORCE BY PEACE OFFICERS - DUTY TO**

**INTERVENE.** (1.5) (a) a peace officer shall intervene to prevent or stop another peace officer from using physical force that exceeds the degree of force permitted, if any, by section 18-1-707, in pursuance of the other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, without regard for chain of command. (b) (i) a peace officer who intervenes as required by subsection (1.5) (a) of this section shall report the intervention to his or her immediate supervisor. (ii) at a minimum, the report required by this subsection (1.5)(b) must include the date, time, and place of the occurrence; the identity, if known, and description of the participants; and a description of the intervention actions taken. This report shall be made in writing within ten days of the occurrence of the use of such force and shall be appended to all other reports of the incident.

**USE OF EXCESSIVE FORCE:** 18-8-803 C.R.S. (1) Subject to the provisions of section 18-1-707 C.R.S., a peace officer who uses excessive force in the 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, including the provisions of part 1 of article 3 of this title concerning homicide and related offenses and the provisions of part 2 of said article 3 concerning assaults. (2) As used in this section, "excessive force" means physical force, which exceeds the degree of physical force permitted pursuant to section 18-1-707. 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.

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VERBAL PERSUASION: The use of words to obtain compliance and control of a subject and/or situation.

#### **IV. POLICY:**

It is the policy of the University of Colorado Colorado Springs (UCCS) Police Department that officers comply with the laws of the State of Colorado and use only that amount of physical force that is objectively reasonable to effect an arrest of an offender, prevent an escape, or to otherwise perform their duties of protecting the community while defending themselves and others from bodily harm. Officers shall deescalate a situation when feasible.

In light of these factors and others, the UCCS Police Department recognizes that objectively reasonable force used by officers cannot always begin at the “minimal necessary” level of force. Additionally, because of differences in size, strength and specialty training among officers, different levels of force may be objectively reasonable for different officers in similar situations.

Officers will assess fluid and rapidly changing situations as well as their own abilities and training and will select the tactics and level of physical force that would be considered objectively reasonable and appropriate based on departmental approved training.

#### **V. PROCEDURE:**

##### USE OF NON-DEADLY PHYSICAL FORCE:

In addition to statutory justification of the use of force extended to citizens, officers may use "reasonable and appropriate physical force" to:

1. To affect an arrest or prevent an escape of an arrested person, unless the member knows that the arrest was unauthorized. 18-1-707 (l) (a) C.R.S.
2. To defend the member or a third person from what is reasonably believed to be the use or imminent use of physical force while affecting, or attempting to affect, an arrest or while preventing, or attempting to prevent, an escape. 18-1-707 (l) (b) C.R.S.
3. To take a person into protective custody for mental health or intoxicated conditions. 27-10-105, 25-10-310 C.R.S.
4. It must be clearly understood that UCCS will not tolerate attacks upon police officers engaged in the performance of their official duties. They are permitted, and in fact directed, to defend themselves and / or a third person(s) when physically attacked.

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5. By law, police officers are required to arrest law violators, using such force as is necessary to overcome resistance and complete the arrest.

**CONSIDERATIONS SURROUNDING THE ELEMENTS OF THE USE OF NON-DEADLY PHYSICAL FORCE:**

1. **Ability** - Does the violator possess the apparent capacity to resist you or a third party, or to cause you or third-party bodily injury?
2. **Opportunity** - Does the violator have the opportunity or apparent opportunity to resist you or a third party, or to cause you or a third-party bodily injury?
3. **Jeopardy** - Does the violator place you or a third party in danger of a hazard, threat, or peril, or perceived hazard, threat or peril?

**USE OF DEADLY PHYSICAL FORCE:**

A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and: (a) the arrest is for a felony involving conduct including the use or threatened use of deadly physical force; (b) the suspect poses an immediate threat to the peace officer or another person; (c) the force employed does not create a substantial risk of injury to other persons. (4) a peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury, would create a risk of death or injury to other persons. (4.5) notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

**CONSIDERATIONS SURROUNDING THE ELEMENTS OF THE USE OF DEADLY PHYSICAL FORCE:**

1. **Ability** - Does the violator possess the ability or apparent ability to kill you or a third party or to cause you or a third party serious bodily injury?
2. **Opportunity** - Does the violator have the opportunity or apparent opportunity to kill you or a third party or to cause you or a third party serious bodily injury?
3. **Jeopardy** - Does the violator place you or a third party in danger of a hazard, threat, or peril, or perceived hazard, threat or peril?

**16-2.5-301 Part 3 Colorado Revised Statutes – Peace Officer Involved Shootings**

1. In accordance with this statute UCCS PD will request the on-call homicide detective from the Colorado Springs Police Department (CSPD) in the event of Deadly Force being used by a member(s) of the department. This request will be

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made on CSPD Falcon 1 radio frequency, although CSPD may not be the department investigating.

**SITUATIONAL USE OF FORCE OPTIONS:**

The methods / instruments listed below may be utilized by an officer in the application of force. An officer shall use the most appropriate application of force given the totality of circumstances known to the officer at the time. Depending on the circumstance, the officer may employ force at any point throughout the subject contact. However, the officer's application of force must be only that level of force necessary to affect a lawful objective.

Officer Response	Subject Action
Firearm Impact Weapons- Vital Areas Edged Weapons	Deadly Force Assault
Personal Weapons Impact weapons - Non-Vital Areas	Aggressive Physical Assault
Assisted Control Holds OC Taser	Active Resistance
Control Holds Escort Holds Pressure Points Takedowns	Passive Resistance
Officer Presence Verbal Commands Non-verbal directives Control Holds Handcuffs Searches on and/or about subject	Compliance

Flashlights are not authorized as a primary impact weapon. Flashlights should only be employed as an impact weapon of last resort.

**\*\*The use of blackjacks, re-enforced gloves and saps are prohibited\*\***

**Response to Aggression Report:** Officers that use force (on or off campus) **must** fill out a “Response to Aggression Report” and complete a Significant Incident Report (SIR). This includes but is not limited to: control holds’, OC spray, straight baton, ASP, CEW and drawing a firearm.

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### **EXCESSIVE USE OF FORCE:**

1. By law, police officers are also required to report incidents involving the **use of excessive force**. Any officer, who, while acting in an official capacity, witnesses an incident in which the officer believes excessive force was employed, **shall report such incident, in writing, within ten days**.
2. Police officers shall intervene to prevent or stop another police officer from using physical force that exceeds the degree of force permitted. Following the intervention the officer shall report to a supervisor in writing within 10 days of occurrence.
3. The degree of observed force which triggers the reporting requirement is that...“force which exceeds the degree of physical force permitted pursuant to CRS § 18-1-707”, that is, “**reasonable and appropriate**” force.
4. Reports of excessive force shall be directed to the reporting officer's immediate supervisor. A separate memo is required; do not indicate in any official police report that an officer perceived the use of excessive force.
5. The memo must include: The date, time, and place of the incident; the identity, if known, and a description of the participants; a description of the force used and the incident.
6. **Failure to report an observation of excessive use of force may lead to disciplinary and possible legal action.**

### **GENERAL USE OF FORCE DIRECTIVES:**

1. UCCS Officers are trained in the Krav Maga, Worldwide System. Officers are approved to use those Krav Maga (KM) techniques taught by UCCS certified KM instructors. The UCCS Police Department recognizes that Officers with additional training in other P.O.S.T. approved arrest control programs: i.e. Koga; PPCT; FBI etc., may revert to utilizing those techniques during high stress situations.
2. Any chokehold is prohibited.
3. Officers shall not aim kinetic impact projectiles at the head, pelvis or back.
4. During crowd control or demonstrations officers shall not indiscriminately fire a kinetic impact projectiles into a crowd.
5. During crowd control or demonstrations officers shall not use chemical agents such as pepper spray prior to an order to disperse and time/space to comply with the order.
6. When restraining subjects, officers should not use the “hog-tie” or any position that may restrict or impair respiration.
7. Officers shall carry only those weapons, deadly and less-lethal, authorized by the Chief of Police.
8. All sworn personnel must be trained in the use of force. They will have access to a written / electronically stored policy and are required to acknowledge and comply with the directives as outlined in this policy.
9. Except for training, educational presentations, inspections, cleaning and maintenance, employees shall not draw or display their personally owned

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or department issued firearms, OC or Taser to the general public unless circumstances cause the employee to believe that it may be necessary to lawfully use these items in accordance with the provisions of this policy.

10. 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 the situation may escalate to the point where deadly force may be justified. When an officer has determined the use of deadly force is not necessary, the officer shall, as soon as feasible, secure or holster the firearm. Intentionally pointing a firearm at a person requires a written report of the incident.

### USE OF FIREARMS DIRECTIVE:

1. An Officer is permitted to use a firearm in circumstances where the use of deadly force is authorized or as follows:
  - a. To destroy an animal obviously suffering from a serious injury or sickness, after first attempting, when feasible, to locate and receive permission from the animal's owner. When a wild animal is destroyed, the Division of Wildlife shall be notified.
  - b. To destroy any animal that is obviously mad or vicious or cannot otherwise be prevented from killing or seriously injuring any person.
  - c. At an approved target at an approved firing range or for practice in any area where firing a weapon would be safe and lawful.
  - d. Officers are expected to exercise care with respect to the direction in which the firearm is pointed, and to take into consideration the potential to cause serious bodily injury or death to innocent parties who maybe in the line of fire.
2. Officers shall:
  - a. **NOT** fire warning shots.
  - b. **NOT** handle a weapon in a manner that results in a negligent discharge.
  - c. **ONLY** surrender their firearms in the absence of reasonable alternatives.
  - d. **NOT** fire shots from a moving motor vehicle except in self-defense or defense of another from what the officers reasonably believes to be the use or imminent use of deadly physical force.
  - e. **NOT** fire shots at a moving vehicle unless:
    - i. The vehicle or suspect poses an immediate threat of death or serious bodily injury to an officer or any person.
    - ii. An officer threatened by an oncoming vehicle shall, if feasible, move out of the way rather than discharging a



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firearm. Officers shall not tactically place themselves in jeopardy to prevent a vehicle from leaving the scene.

- iii. If deadly force is justified, and other options are not feasible, shots shall be directed at the driver/perpetrator(s) and not the structure of the vehicle itself.

### 3. Exhibiting Firearms:

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 the situation may escalate to the point where deadly force may be justified. When an officer has determined the use of deadly force is not necessary, the officer shall, as soon as feasible secure or holster the firearm. Intentionally pointing a firearm at a person requires a written report of the incident.

## RENDERING FIRST AID:

1. After having used physical force against another, or upon arriving at a scene wherein physical force was used by another officer, and where medical attention is required, an officer shall:
  - a. Secure the scene as the tactical situation permits
  - b. Summon medical assistance, and if reasonable
  - c. Render first aid when it is safe for the officer to do so
  - d. If during a **custodial arrest** the arrestee refuses treatment at the hospital, the officer will request a medical record notation by the emergency room personnel and advise the jail intake staff of the refusal of treatment.
  - e. For **non-custodial** incidents, the same procedure will be in effect:
    - i. If the individual refuses to be transported to the hospital or declines to wait for the paramedics, it will be considered a refusal of medical treatment by the individual.
    - ii. Every effort should be made to have the individual indicate in writing their refusal to accept medical treatment.
2. If the individual's injuries appear serious or life threatening, paramedics will be called to the scene even in non-custodial situations. The paramedics and emergency room staff will make the determination as to whether the individual is to be transported to the hospital.

## USE OF HANDCUFFS:

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1. Officers shall handcuff all persons they take into custody. However, if special circumstances exist an officer may choose not to handcuff based on reasons, they are able to articulate.
2. Persons in custody shall be handcuffed behind their backs. The handcuffs will be checked for tightness and double locked. Officers will note this information in their case reports.
3. Handcuffs may be used during the course of a “Terry Stop,” or other contact when the officer feels that his or her safety may be compromised by leaving the contact’s hands free.
4. All uniform patrol and investigators shall carry handcuffs while on duty. It shall be their responsibility to maintain them in proper order at all times.

### **DISCHARGE OF OFFICERS FIREARM:**

1. In instance’s involving a discharge of a weapon, unintentional or not, by an officer while on duty, a significant incident report will be completed and their immediate supervisor notified as soon as time and circumstances permit, but no later than the end of the current shift. In instance’s involving a discharge of a weapon, unintentional or not, by an officer while off duty, the local jurisdiction will be notified immediately, as well as, the officer’s immediate supervisor. The matter may then be referred to the PSU for investigation. This does not include formal and informal firearms department training.
2. An officer will be subject to disciplinary action if the shooting involves:
  - a. A violation of law
  - b. A violation of departmental regulation
  - c. Poor judgment involving wanton disregard of public safety
  - d. Misconduct (including consumption of alcohol, unjustified display of force or authority, disregard of duty, or use of official authority for personal advantage)
  - e. An accidental discharge of a weapon, through carelessness or gross negligence
  - f. When an investigation is initiated due to an officer involved shooting, that officer(s) will be placed on administrative leave pending the outcome of the investigation.
  - g. Investigative findings of a shooting incident will be turned over to the District Attorney for appropriate action.

### **STORAGE OF WEAPONS:**

Weapons will be stored in a safe and secure manner to prevent theft, loss and/or injury when not in use or carried on an officer’s person.

### **VI. HISTORY:**

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 General Order 400-100, effective August 1, 2019  
 Standard Operating Procedure 400-100, effective August 1, 2018  
 Standard Operating Procedure 400-100, effective July 31, 2015  
 Procedure 200, effective April 11, 2003