

# COLUMBIA POLICE DEPARTMENT

Policy and Procedure Manual

## USE OF FORCE/RESPONSE TO RESISTANCE

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### 300 USE OF FORCE/RESPONSE TO RESISTANCE

#### 300.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines on the reasonable use of force or response to resistance. This policy recognizes that the response to resistance by law enforcement requires constant evaluation. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### 300.2 POLICY

The use of force or response to resistance by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when reasonably necessary, may use reasonable force to accomplish lawful objectives.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

It is the policy of the Columbia Police Department to recognize and respect the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.3 DEFINITIONS

Definitions related to this policy include:

**DEADLY FORCE:** Physical force which the actor uses with the purpose of causing or which he/she knows to create a substantial risk of causing death or serious physical injury (§ 563.011, RSMo).

**DE-ESCALATION:** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

## COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

## USE OF FORCE/RESPONSE TO RESISTANCE

**LESS-LETHAL FORCE/FORCE:** Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another. This includes the application of physical techniques or tactics, chemical agents or weapons to another person.

**REASONABLE BELIEF:** When facts or circumstances the officer knows or perceives, are such as to cause an ordinary and prudent officer, with similar training and experience, to act or think in a similar way under similar circumstances.

**REASONABLY NECESSARY:** Force may be used only to accomplish lawful objectives to the extent reasonably necessary in light of the circumstances confronting the officer. Force is reasonably necessary only if lesser force would not likely lead to safe control of persons and situations. The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident and not 20/20 hindsight.

**SERIOUS PHYSICAL INJURY:** Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body (§ 556.061, RSMo).

### 300.4 LEVELS OF FORCE

Tactics for de-escalation and legal reasoning for escalating levels of force will be discussed during annual in-service training regarding use of force/response to resistance topics.

Training regarding levels of force is not intended to direct officers to use each of the options before escalating to the next level. The circumstances of each situation coupled with good judgment will determine at which level an officer will start or utilize next.

### 300.5 AUTHORITY TO USE FORCE

In addition to statutory justification of the use of force extended to citizens, described in Missouri Revised Statutes (RSMo) 563.031 and 563.041, employees may use “reasonable and appropriate physical force” to:

- Maintain order and discipline in a detention or correctional institution (RSMo 563.061).
- Effect an arrest or prevent an escape of an arrested person, unless the employee knows that the arrest was unauthorized (RSMo 563.046 and 544.190).
- Defend the employee or a third person from what is reasonably believed to be the use or imminent use of unlawful force by such other person while effecting, or attempting to effect, an arrest or while preventing, or attempting to prevent, an escape (RSMo 563.031).
- Prevent a person from injuring himself/herself (RSMo 563.061).

#### 300.5.1 PREREQUISITE TO CARRYING LETHAL/LESS LETHAL WEAPONS

All employees shall receive all use of force/response to resistance policies, related instruction, and demonstrate proficiency in each weapon issued before being authorized to carry the weapon in performance

# COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

### USE OF FORCE/RESPONSE TO RESISTANCE

---

of their official duties. Receipt of policy and curriculum will be documented through PowerDMS and the Training and Recruitment Unit.

#### **300.6 USING FORCE OR RESPONDING TO RESISTANCE**

Officers shall use only that amount of force that appears reasonably necessary given the facts and circumstances at the time of the event to accomplish a lawful objective. The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident.

Given that no policy can realistically predict every possible situation an officer might encounter, Officers are entrusted to use well-reasoned discretion in determining the appropriate response to resistance in each incident.

For situations that do not pose an immediate threat, officers are entrusted and encouraged to slow down the situation, take advantage of distance, cover, and tactical repositioning, and use de-escalation techniques to achieve a lawful objective whenever possible. Supervisory assistance should be requested as applicable.

With the understanding that an officer can never know the actual nature of a threat or actual intent of another, the ultimate objective of every law enforcement encounter is to avoid or minimize injury. Nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### **300.7 FACTORS USED TO DETERMINE THE JUSTIFICATION & REASONABLENESS OF FORCE**

Justification for the use of force is limited to what is reasonably known or perceived by the officer at the time of the incident. Facts discovered after the event, no matter how compelling, cannot be considered in later determining whether the force was justified. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that appears reasonably necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving. When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- a. Immediacy and severity of the threat to officers or others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c. Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d. The effects of drugs or alcohol.
- e. Subject's mental state or capacity.
- f. Proximity of weapons or dangerous improvised devices.
- g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- h. The availability of other options and their possible effectiveness.

## COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

## USE OF FORCE/RESPONSE TO RESISTANCE

- i. Seriousness of the suspected offense or reason for contact with the individual.
- j. Training and experience of the officer.
- k. Potential for injury to officers, suspects and others.
- l. Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- m. The risk and reasonably foreseeable consequences of escape.
- n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
- o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- p. Prior contacts with the subject or awareness of any propensity for violence.
- q. Any other exigent circumstances.

**300.8 DUTY TO INTERCEDE**

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

**300.9 WEAPONLESS CONTROL TECHNIQUES, INTERMEDIATE WEAPONS AND FIREARMS**

Officers shall only use those techniques, intermediate weapons and firearms for which they have successfully completed department-approved training by a certified instructor. Any personnel who are unable to qualify, show proficiency, and/or pass written tests associated with weaponless control techniques, intermediate weapons or firearms will not be able to use those techniques or weapons until they complete remedial training determined by the instructor and can pass the associated written tests, qualifications or demonstrate proficiency. A memo will be sent by the instructor to the Chief of Police, via the chain of command, for anyone who fails to pass written tests, qualify, or demonstrate proficiency after receiving remedial training. The Chief of Police or designee will determine the individual's employment status or any exceptions that may be made.

It is also recognized that circumstances may arise in which Officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a lawful objective.

Officers utilizing weaponless control techniques, intermediate weapons or firearms should consider:

- a. The degree to which the application may be controlled given the level of resistance.
- b. Whether the person can comply with the direction or orders of the officer.
- c. Whether the person has been given sufficient opportunity to comply.

# COLUMBIA POLICE DEPARTMENT

Policy and Procedure Manual

## USE OF FORCE/RESPONSE TO RESISTANCE

---

In no circumstance shall the application of any of the above be continued once the officer determines that compliance has been achieved.

### **300.10 DEADLY FORCE APPLICATIONS**

Use of deadly force is justified in the following circumstances:

- a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- b. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

### **300.11 LIMITS ON FORCE**

#### **300.11.1 WARNING SHOTS**

**WARNING SHOTS ARE PROHIBITED.**

#### **300.11.2 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are prohibited except where the officer reasonably believes there is an imminent threat of death or serious physical injury to him/herself or a third party and this action is the only reasonable means at the time to stop the threat.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle unless deadly force is justified.

# COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

### USE OF FORCE/RESPONSE TO RESISTANCE

---

#### **300.11.3 UNAUTHORIZED WEAPONS AND OFFENSIVE DEVICES**

The carrying of offensive devices/weapons such as saps, clubs, slappers, Billy clubs, sticks, brass knuckles, bats, weighted gloves, bludgeons, or any other offensive device not identified and approved by policy and procedure of this department is forbidden while acting under the authority as a commissioned police officer.

This section does not prohibit officers from improvising their response to rapidly unfolding conditions that they are confronting. In such circumstances, where issued weapons and devices are inaccessible or malfunctioning, the use of any improvised device or method may be necessary. The exigent use of such devices or methods must nonetheless be reasonable and utilized only to the degree reasonably necessary to accomplish a lawful objective.

#### **300.11.4 STRANGLE AND CHOKE HOLDS**

Choke, strangle or similar holds which restrict the flow of blood to the brain or the person's ability to breathe are prohibited except where the officer reasonably believes there is an imminent threat of death or serious physical injury to him/herself or a third party and this action is the only reasonable means at the time to stop the threat.

#### **300.12 WEAPONS, AMMUNITION, AND DEVICES PERMITTED**

Only weapons, ammunition, and control devices which have been issued and/or authorized by the Chief of Police/designee may be used by department personnel in the performance of their duties. This shall apply to weapons and ammunition carried both on duty and during extra-duty assignments. Specific details regarding weapons, ammunition, and control devices will be covered in their respective policies where applicable.

#### **300.12.1 USE OF DEPARTMENT VEHICLE TO STRIKE VEHICLES, INDIVIDUALS, OTHER OBJECTS**

Officers are authorized to use department vehicles to strike other vehicles, individuals, or other objects when the officer reasonably believes there is an imminent threat of death or serious physical injury to him/herself or a third party and this action is the only reasonable means at the time to stop the threat.

#### **300.13 REPORTING THE RESPONSE TO RESISTANCE**

A written report will be submitted any time an employee:

- a. Discharges a firearm, for other than training or recreational purposes (does not include the humane killing of an injured animal);
- b. Takes an action that results in, or is alleged to have resulted in, injury or death of another person;
- c. Applies force through the use of lethal or less lethal weapons; or
- d. Applies weaponless physical force at a level as defined by this agency.

# COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

### USE OF FORCE/RESPONSE TO RESISTANCE

---

The report shall document completely and accurately the factors perceived at the time of the incident and why he/she believed the response to resistance was reasonable under the circumstances. The report should be completed, depending on the nature of the incident, prior to the end of shift unless the delay is authorized by a supervisor.

Incidents where the actions of an employee resulted in, or is alleged to have resulted in the death of another person will be handled according to the procedures described in policy 310 Officer Involved Shooting.

To collect data for purposes of training, resource allocation, analysis and related purposes, the department may require the completion of additional report forms, as specified in department policy, procedure or law.

#### **300.13.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- a. The application caused a visible injury.
- b. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- c. The individual subjected to the force complained of injury or continuing pain.
- d. The individual indicates intent to pursue litigation.
- e. Any application of the CEW device or control device.
- f. Any application of a restraint device other than handcuffs, shackles or belly chains.
- g. The individual subjected to the force was rendered unconscious.
- h. An individual was struck or kicked.
- i. An individual alleges any of the above has occurred.

#### **300.13.2 BLUE TEAM ENTRIES**

A response to resistance entry containing information on the force used must be made through the Blue Team software. Information entered into the system should include:

- a. Race, gender, and age of the subject to which force was applied;
- b. Date, time, and location of the incident;
- c. Identity of all parties involved;
- d. Details of the incident including a summary of circumstances leading to the use of force/response to resistance;
- e. Documentation of all injuries; and
- f. Medical treatment provided.

Blue Team entries are required for the following circumstances:

- a. Any circumstances related to response to resistance that requires supervisor notification

# COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

### USE OF FORCE/RESPONSE TO RESISTANCE

---

- b. Use of a restraint chair.
- c. Any time an officer points a firearm at any person in response to the person's physical or implied actions.
- d. When any amount of physical effort is used to compel compliance by an unwilling subject.
- e. Any discharge of a firearm on or off duty, for other than training or recreational purposes (does not include the humane killing of an injured animal).
- f. Any discharge of a less lethal weapon either at a person, animal or at an inanimate object for the purpose of breaching an entry.

Data collected from the Blue Team entries will be used for administrative reviews and an annual analysis that can contribute to the creation of safer strategies for employees and citizens, improvements in City/department policies and procedures, and the identification of training needs.

#### **300.14 MEDICAL CONSIDERATION**

Prior to booking or release, medical assistance/evaluation shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, has been exposed to chemical agents such as OC spray or tear gas, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of increased observation to detect changes in condition, flushing chemical agents from the eyes, or examination by fire personnel, paramedics, or hospital staff. If any such individual refuses medical attention, such a refusal shall be fully documented with an Evaluation/Care Refusal Form and in related reports. Whenever practicable, the refusal should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any response to resistance is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable.



# COLUMBIA POLICE DEPARTMENT

## Policy and Procedure Manual

### USE OF FORCE/RESPONSE TO RESISTANCE

---

#### **300.15 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force requiring supervisor notifications, the supervisor is expected to:

- a. Obtain the basic facts from the involved officers.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately interview the subject upon whom force was applied. The interview should be recorded when practicable and allowed by law. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
  1. The report should indicate the content of the interview was obtained for administrative purposes and that the subject did not voluntarily waive his/her Miranda rights prior to making the documented statements.
  2. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed and/or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review all related reports, audio and video recordings and Blue Team entries.
- g. Determine if there is any indication that the subject may pursue civil litigation.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit and document his/her findings in an applicable report(s).

#### **300.15.1 WATCH COMMANDER RESPONSIBILITY**

The Watch Commander shall complete an administrative review of each use of force/response to resistance report, to include associated video, and Blue Team entries, by any employee within his/her command to ensure compliance with this policy. The Watch Commander should ensure that any follow-up actions are completed to include, but not limited to, recommendations for policy revisions and /or training issues.

#### **300.15.2 ADMINISTRATIVE LEAVE REQUIRED**

Any employee whose actions resulted in or are alleged to have resulted in the death or serious physical injury of another person will be removed from their operational assignment and placed on administrative leave pending an administrative review. During this time, considerations will be given by the department to the need for post-incident debriefings and counseling for affected employees and the family members of employees. Additional information regarding administrative leave can be located in policy 1020 section 1020.5.

## USE OF FORCE/RESPONSE TO RESISTANCE

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### **300.16 ANNUAL ANALYSIS**

Annually the department will prepare an analysis of its use of force/response to resistance activities, policies and practices. The analysis should identify the following:

- a. Date and time of incidents;
- b. Types of encounters resulting in force;
- c. Trends or patterns related to race, age, and gender of subjects involved;
- d. Trends or patterns resulting in injury to any person including employees; and
- e. Impact of findings on policies, practices, equipment, and training.

### **300.17 TRAINING**

At least annually, all agency personnel authorized to carry lethal and less lethal weapons are required to receive in-service training on the agency's use of force policies and demonstrate proficiency with all approved lethal weapons and electronic controlled weapons for which they are authorized to use.

In-service training for other less lethal weapons and weaponless control techniques shall occur at least biennially.

The training is to be monitored by a certified weapons and tactics instructor. All employees who fail to qualify or meet minimum standards will be required to complete remedial training as designated by the Training and Recruitment Unit before resuming official duties.

Instruction should include confirmation of employee understanding of legal implications and requirements regarding use of force, weapons specific operating and care procedures, documentation and reporting procedures, obligations following the use of force, as well as instruction regarding the appropriate use of de-escalation techniques.

All training will be documented and preserved by the Training and Recruitment Unit.