


EL PASO COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURE MANUAL

Effective Date: 07/20/06 Supercedes: 01/18/06	Approval: 	Number: 501
Subject: USE OF FORCE		
Reference: C.R.S. 18-1-703, 18-1-707, 18-1-901, 18-8-802, 18-8-803, 25-10-310, 27-10-105	Standard: ACA: 2B-01, 2B-02, 2B-04, 7B-10, 7B-14, 7B-15 & 7B-16 CALEA: 1.3 (all), 16.3.6, 71.2.1	
Chapter: V	Reevaluation Date: Annual	No. Pages: 7

I. PURPOSE: To provide guidelines in the use of force and in the reporting of the use of force. This directive is for Office use only and does not apply in any criminal or civil proceeding. This policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for administrative sanctions.

II. DEFINITION:

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

DEADLY PHYSICAL FORCE: "Deadly force," as used in this policy, is defined as intentional use of force, which can cause death or serious bodily injury or which creates a degree of risk that a reasonable and prudent person would consider likely to cause death or serious bodily injury. It includes, but is not limited to, use of firearms, neck restraint and intentional intervention with a vehicle (forcible stops or ramming).

DEADLY WEAPON: Any of the following, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury: (I) a firearm, whether loaded or unloaded; (II) a knife; (III) a bludgeon; or (IV) any other weapon, device, instrument, material, or substance, whether animate or inanimate. 18-1-901(e) C.R.S.

DE-ESCALATE: To use the least amount of force to stop the action of a violator and reduce the amount of force applied as the threat is neutralized or becomes compliant.

DUTY TO REPORT USE OF FORCE BY PEACE OFFICERS: 18-8-802 C.R.S. (1) (a) A peace officer who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such 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, uses physical force which exceeds the degree of physical force permitted pursuant to section 18-1-707 C.R.S. must report such use of force to such officer's immediate supervisor.

ELECTRONIC IMMOBILIZING DEVICE (EID): A less than lethal, Conducted Energy Weapon, that uses propelled wires or direct contact to conduct electronic energy to a remote target, thereby controlling and overriding the central nervous system of the body.

JEOPARDY: A hazard, threat, or peril.

IMMEDIATE THREAT: An immediate threat is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the suspect will continue to pose a threat of death or serious bodily injury if not apprehended without delay.

IMMINENT DANGER: An impending action by a suspect, which leads an officer to reasonably believe there is an immediate threat of serious bodily injury or loss of human life towards any person, including the officer.

LETHAL WEAPON: Any object or material, when in the manner it is used or intended to be used is capable of producing death or serious bodily injury.

LESS THAN LETHAL WEAPON: Any object or material, when in the manner it is used or intended to be used is not likely to result in death or serious bodily injury.

PHYSICAL OR 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.

REASONABLE BELIEF: Having knowledge of facts, which, although not amounting to direct knowledge, would cause a reasonable person, knowing the same facts, to reasonably conclude the same thing.

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. 18-1-901(p) C.R.S.

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.

III. POLICY: It is the policy of the Sheriff's Office that members protect themselves, third parties or individuals incapable of defending themselves from injury by an aggressor. Members are expected to be knowledgeable of the Use of Force policy; to include lethal and less than lethal alternatives through personal review of the Use of Force policy and through annual in-service training. Members shall use only that force which is reasonable and necessary, both physical force and deadly physical force, when justified and legally appropriate and shall report the use of such force. Members are expected to exercise care with respect to the direction of 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. Members will insure that first aid is rendered after applying force and that medical attention is obtained. Members, who are involved in the Use of Force Continuum level three (3) or higher, will insure that the suspect/inmate receives medical aid as required.

IV. PROCEDURE:

A. NON-DEADLY FORCE:

Use of Force by employees or members: In addition to statutory justification of the use of force extended to citizens, members may use "reasonable and appropriate physical force" to:

1. Maintain order and discipline in a detention or correctional institution. 18-1-703 (l) (b) C.R.S.

2. Effect 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.
 3. Defend the member or a third person from what is reasonably believed to be the use or imminent use of physical force while effecting, or attempting to effect, an arrest or while preventing, or attempting to prevent, an escape. 18-1-707 (l) (b) C.R.S.
 4. Take a person into protective custody for mental health or intoxicated conditions. 27-10-105, 25-10-310 C.R.S.
- B. ELEMENTS OF NON-DEADLY FORCE:
1. **Ability or Apparent Ability** - Does the violator possess the capacity to resist you or a third party, or to cause you or third party harm? (Situations where the violator is offering resistance, passive or otherwise, can show ability).
 2. **Opportunity** - Does the violator have the opportunity to resist you or a third party, or to cause you or a third party bodily harm? (Opportunity is generally proven by showing the violator was present or within the presence of the third party).
 3. **Jeopardy** - Does the violator place you or a third party in jeopardy? (A jeopardy assessment must be made; are you facing passive, mild, or forceful resistance).
 4. **Preclusion** - Have you reasonably exhausted all of your avenues of de-escalation at that time and place? (Did you use the least amount of force to stop the violator's actions)?
- C. DEADLY FORCE:
- Use of Deadly Physical Force - In accordance with the statutory justifications, a member is justified in using deadly physical force in the following:
1. To defend the member or a third person from what is reasonably believed to be the use or imminent use of deadly physical force.
 2. To effect an arrest, or to prevent the escape from custody, of a person whom the member reasonably believes:
 - a) Has committed or attempted to commit a felony involving the use of a deadly weapon; or is attempting to escape by the use of a deadly weapon and the suspect presents an imminent danger to human life or threat of serious bodily injury to another.
 - b) Otherwise indicates, except through a motor vehicle violation, that the suspect presents an imminent danger to human life or threat of serious bodily injury to another unless apprehended without delay.
 - c) A peace officer employed in a detention facility is justified in using deadly physical force when the peace officer reasonably believes it is necessary to prevent the escape of a prisoner convicted of, charged with, or held for a felony or confined under the maximum security rules of any detention facility and when the peace officer reasonably believes that, unless apprehended without delay, the escaping inmate presents an imminent danger to human life or serious bodily injury to another.
- D. ELEMENTS OF DEADLY FORCE:
1. **Ability or Apparent Ability** - Does the violator possess the ability to kill you or a third party or to cause you or a third party serious bodily harm?
 2. **Opportunity** - Does the violator have the opportunity to kill you or a third party or to cause you or a third party serious bodily harm? (Generally, the violator must be in your presence or within the presence of the third party).
 3. **Imminent Jeopardy** - Has the violator placed you or a third party in imminent danger? (Were you or a third party in fear for your life)?
 4. **Preclusion** - Have you reasonably exhausted all of your avenues of de-escalation at that time and place? (Did you use the least amount of force to stop the violator's actions)?

E. RANGE OF RESPONSE CONTINUUM:

1. **Level 1 - Officer Presence:**

Sublevels = Standing, Walking, Running, Canine, and/or Equine.

Compliant subjects are those individuals who offer no verbal or physical resistance to the deputy's commands and demonstrate their cooperation by immediately responding to directions.

2. **Level 2 - Verbal Commands:**

Sublevels = Whisper, Conversation, Shout, and/or Canine.

Passive resistant subjects are those individuals that refuse to comply with commands but are not attempting to physically prevent or defeat the deputy's commands or contact controls.

3. **Level 3 - Control and Restraint:**

Sublevels = Empty Hands, Impact Tools, Restraints, OC Spray, Canine, Equine, and/or Electronics.

Active resistant subjects are those individuals who refuse to comply with the deputy's commands and are physically resisting a deputy's control techniques, or individuals whose combination of words and actions may present a physical threat to others.

4. **Level 4 - Chemical Agents:** (normally used by SWAT and SRT)

Sublevels = Hand Held, Thrown, and/or Propelled.

5. **Level 5- Temporary Incapacitation:**

Sublevels = Empty Hands, Impact Tools, Electronics, Canine, Equine.

Combative subjects are those individuals who attempt to defeat a deputy's compliance techniques in that they are resistant, combative and overtly attempting to overpower the deputy.

6. **Level 6 - Deadly Force:**

Sublevels = Empty Hands, Impact Tools, and/or Firearms (warning shots are not allowed).

Deadly force assaults are any assaults where the deputy has reason to believe the subject's actions are likely to cause death or serious bodily injury.

F. WRITTEN REPORTING REQUIREMENTS:

1. Levels 3, 4, 5 & 6 shall be documented in memorandum or other reports. The subject shall be photographed, to include the sites of all visible and/or reported injuries.
2. A Use of Force memorandum or other reports shall be required in the following situations:
 - a) A firearm is discharged intentionally or accidentally, other than as permitted for practice or in lawful recreational or hunting purposes
 - b) When an animal is destroyed
 - c) When a use of force results in, or is alleged to have resulted in, death or injury to any person
 - d) When a less than lethal weapon is used on a person
 - e) When a Sheriff's Office canine causes injury, or is alleged to have caused an injury to any person
3. The Use of Force memorandum or other reports shall be completed by the involved employee and forwarded via the chain of command to the division commander prior to the conclusion of the involved employee's tour of duty.
4. A supervisor shall be notified and shall respond to the scene in the following situations:
 - a) When a firearm is discharged outside the firing range. Exception - A supervisor shall be notified, but response is discretionary, when a deputy destroys an ill or injured animal
 - b) When a use of force results in death or serious bodily injury to any person
 - c) When a subject complains that an employee has inflicted an injury
5. When a use of force results in serious bodily injury, immediate notification shall be made to the Internal Affairs Supervisor and the affected division commander who shall notify the Sheriff and Undersheriff as soon as possible.

6. When a use of force results in death, immediate notification shall be made to the affected division commander, the Investigations Division Commander, the Internal Affairs Supervisor, Sheriff, Undersheriff, and District Attorney.
- G. USE OF FORCE ISSUES:
1. Only those techniques of physical force approved for instruction in the Sheriff's Office Academy and in-service training are permitted.
 2. Any chokehold intended to restrict or stop the flow of blood to the brain is prohibited.
 3. Deputies shall carry only those weapons, both deadly and less than lethal, authorized by the Sheriff.
 4. All sworn personnel will be issued written policy and receive instruction in the use of lethal and less than lethal weapons before being authorized to carry such weapons.
 5. The "hog tie" method of restraining a prisoner is prohibited
 6. The EID will not be used against a subject who:
 - a) in a flammable environment or saturated with a flammable substance.
 - b) Is sprayed with Oleoresin Capsicum (OC) spray.
 - c) Is suspected or known to be pregnant.
 7. Members are expected to exercise care with respect to the direction the firearm is pointed, and to take into consideration the potential to cause serious injury or death to innocent parties who may be in the line of fire.
- H. USE OF A FIREARM:
1. A deputy is permitted to fire a weapon in circumstances where the use of deadly force is authorized or as follows:
 - a) To destroy a domestic 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 and 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) Deputies and Reserve Deputies are expected to exercise care with respect to the direction of 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. Deputies shall:
 - a) NOT fire warning shots
 - b) NOT surrender their firearms until they have exhausted every possible alternative
 - c) NOT fire shots from a moving motor vehicle
 - d) NOT fire shots at a moving vehicle unless that vehicle presents an imminent danger of death or serious bodily injury to any person. In such a case, the shots shall be directed at the perpetrator(s) and not the structure of the vehicle itself
 - e) NOT mishandle a weapon in a manner that results in an accidental discharge
- I. LESS THAN LETHAL WEAPONS:
1. Less than lethal weapons shall be utilized in accordance with the guidelines in this policy. The following is a list of approved less than lethal weapons:
 - a) Authorized police batons:
 - 1) Are not to exceed 36 inches in length or one and one quarter inches in diameter
 - 2) Can be made from any hardwood, manufactured synthetic material, or metal
 - 3) May be a factory manufactured collapsible style
 - 4) Must be natural wood or black in color
 - 5) Modifications of any type are not authorized
 - 6) Steel balls or rods of any kind cannot be added to any baton
 - 7) The baton can be an expandable steel baton (ASP)

- b) Oleoresin Capsicum (OC) - water based pepper spray only. (Alcohol based OC is authorized for use by SWAT and SRT team members only)
 - c) 37mm and 12 gauge beanbag rounds (used by trained SWAT and SRT team members).
 - d) Tear gas (used by trained SWAT and SRT team members)
 - e) Light and sound diversion (used by trained SWAT and SRT team members)
 - f) Electronics:
 - 1) Remote Electronically Activated Control Technology (REACT) Belt (used by trained sworn personnel)
 - 2) Electronic Immobilizing Device (EID) Advanced Taser M-26/X-26 (used by trained sworn personnel)
2. The use of blackjacks, leaded gloves and saps are prohibited.
 3. Oleoresin capsicum, in sufficient concentration, will produce a short period of pain, gagging and loss of vision. Federal and state laws on the use of force do not regulate the use of oleoresin capsicum. The following principals regarding the use of oleoresin capsicum are consistent with legal guidelines applicable to all use of force. Oleoresin capsicum will not be used against a subject who:
 - a) Submits peacefully and complies with lawful commands
 - b) Is merely expressing verbal disagreement and does not threaten the deputy or others
 - c) Is not significantly obstructing or delaying the deputy in carrying out his/her duties
 4. The decision to use a less than lethal weapon will be based on the totality of the situation. In most situations, a deputy's best defense is weaponless control. However, there are many circumstances that require more force than can reasonably be applied without weapons, but fall short of circumstances in which deadly force would be appropriate. Each set of circumstances may be different and requires the deputy to exercise his/her own judgment. Deputies should recognize that less than lethal weapons are an intermediate defense, used primarily to control or defend. The following may be considered to determine when less than lethal weapons may be used:
 - a) Size of the subject in comparison to the deputy
 - b) Number of subjects
 - c) Need for immediate control due to tactical considerations
- J. PLACEMENT ON ADMINISTRATIVE LEAVE:
1. Deputies involved in fatal incidents, or whose actions result in serious physical injury will be placed on administrative leave and cooperate fully with the investigation.
 2. Deputies placed on administrative leave will be responsible for advising their respective division commander and bureau chief of his/her whereabouts, should contact need to be made.
- K. RENDERING FIRST AID:
1. Use of Force Incidents
 - a) Upon arrival at the scene of an incident in which physical force was used, or after having used physical force against another, and medical attention is required, the deputy shall:
 - 1) Summon medical assistance.
 - 2) Render first aid and maintain close observation of the subject.
 - b) Less Than Lethal Weapons
When less than lethal weapons are utilized against an individual the deputy shall:
 - 1) Summon medical assistance.
 - 2) Render first aid and maintain close observation of the subject.
 - c) Lethal Force Incidents
The deputy shall:
 - 1) Make the scene safe and secure.
 - 2) Summon medical assistance.
 - (a) Render first aid, when necessary, and maintain close observation of the subject
 - (b) Law Enforcement personnel will summon an ambulance

- (c) Detention personnel working inside a detention facility or the courthouse will summon the in-house medical personnel; all other detentions personnel will follow procedures in (a) and (b) above
- d) During Tactical Situations
 - 1) The SWAT commander shall insure that emergency medical service is notified and placed on standby in a safe location near the incident.
 - 2) The SRT commander shall contact the medical service or in-house medical personnel and insure that medical assistance is notified and placed on standby in a safe location.
 - 3) If injuries are apparent and require medical attention, the appropriate medical personnel shall be notified and allowed to enter the area to provide medical assistance to the injured party, only after the area is safe and secure.
- e) Motor Vehicle Accidents

The deputy shall:

 - 1) Secure the scene and re-direct traffic to alternate routes if necessary.
 - 2) Summon an ambulance.
 - 3) Administer first aid to injured persons.
- f) Incidents with Crime Scenes

If a deputy arrives on the scene of a domestic violence, sexual assault, assault in various degrees, or any other offense where injuries have occurred, the officer shall, based on his/her judgment as the deputy on scene:

 - 1) Summon an ambulance if necessary.
 - 2) Administer first aid to injured persons.
 - 3) Preserve the scene.
- g) Responding to Injured Persons Calls

The deputy shall:

 - 1) Administer appropriate first aid and/or emotional support.
 - (a) Render first aid and maintain close observation of the subject.
 - (b) Law Enforcement personnel will summon an ambulance.
 - (c) Detention personnel working inside a detention facility or the courthouse will summon the in-house medical personnel; all other detention personnel will follow procedures for (a) and (b) above.
 - 2) Obtain information to assist medical personnel.

L. ANNUAL REPORTS:

The Patrol Division Commander will conduct an annual review of all Law Enforcement Bureau related Use of Force Incident Reports. This report will cover the period January 1st to December 31st of the current year.

M. TRAINING:

The Sheriff's Office Use of Force policy will be distributed to each sworn or reserve member during the annual use of force in-service training. All new recruits will receive either a policy disc or the Use of Force policy during their academy training.