



ERIE POLICE DEPARTMENT



Written Directives

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POLICY:

CACP STANDARD 20.1 & 50.1

The Erie Police Department recognizes the value of all human life and is committed to respecting human rights and the dignity of every individual. The Erie Police Department is also committed to respecting the Constitutional right to be free from excessive force by a law enforcement officer.

The use of force, especially force likely to result in serious bodily injury or death (including a firearm), is a serious action. When deciding whether to use force, officers shall act within the boundaries of the United States and Colorado constitutions and laws, ethics, good judgment, this Written Directive, departmental training and all other relevant Erie Police Department Directives.

An officer shall use only that degree of force necessary and reasonable under the circumstances. An officer may use deadly force in the circumstances permitted by this directive when all reasonable alternatives appear impracticable and the officer reasonably believes the use of deadly force is necessary. Officers should ensure they do not engage in unreasonable actions which cause the use of force as a result of tactical, strategic and procedural errors which place themselves or others in jeopardy.

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The determination of reasonableness must allow for the fact police officers are often forced to make split-second judgments regarding the amount of force which is necessary in a particular situation, in circumstances which are tense, uncertain and rapidly evolving. The reasonableness inquiry in an excessive force case is an objective one; the question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

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

At times, policing requires an officer to exercise control of a violent, assaultive, or resisting individual to make an arrest, or to protect the officer, other officers, or members of the general public from risk of imminent harm. Officers may either escalate or de-escalate the use of force as the situation progresses or circumstances change. Officers should recognize their conduct immediately connected to the use of force

may be a factor which can influence the level of force necessary in a given situation. When reasonable under the totality of circumstances, officers should use advisements, warnings, verbal persuasion and other tactics and recognize an officer may withdraw to a position which is tactically more secure or allows an officer greater distance in order to consider or deploy a greater variety of force options. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force should be de-escalated accordingly.

Unnecessarily or prematurely drawing or displaying 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 unintended 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 should, as soon as practicable, secure or holster the firearm.

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

Officers who use force as described in the Colorado Revised Statutes or the Written Directives of the Erie Police Department must immediately report the circumstances to a supervisor or Command Staff Officer and comply with all reporting requirements.

An officer who witnesses inappropriate, unnecessary, unreasonable or excessive use of force by another officer shall report it immediately to a supervisor who in turn shall immediately report the incident to a Command Staff Officer.

Officers who are off-duty and become involved in any use of force situation must report the circumstances to an on-duty Erie Police Department supervisor or Command Staff Officer as soon as reasonably practical.

In all cases and as soon as practical, officers must ensure medical treatment is provided to any person who has been injured or alleges injury as a result of being subjected to the use of force.

DEFINITIONS:

LEVELS OF RESISTANCE: When referring to levels of resistance for reporting purposes and the purposes of this directive, the following definitions apply:

PSYCHOLOGICAL INTIMIDATION: Non-verbal cues indicating a subject's threatening attitude, appearance, and physical readiness.

VERBAL NON-COMPLIANCE: Verbal responses indicating an unwillingness to comply.

PASSIVE RESISTANCE: Nonviolent physical actions such as going limp, stiffening the body, refusing to move, or others which hinder an officer's control.

Note: Psychological Intimidation, Verbal Non-Compliance and Passive Resistance generally do not involve conduct sufficient to support criminal charges related to resistance according to Town of Erie Ordinance 6-8-2 Resisting Arrest.

DEFENSIVE RESISTANCE: Refusal to comply with verbal orders combined with physical actions that prevent an officer's control and demonstrate an intention or willingness through words, body posture, or movements to actively resist or attempt to cause injury to another. These actions do not yet rise to the level of active aggression.

ACTIVE AGGRESSION: Physical actions of assault or attempted assault.

AGGRAVATED ACTIVE AGGRESSION: Deadly force encounter.

FORCE: For the purpose of the Erie Police Department, "force" will refer to any of the following actions taken by a department member:

1. Any action which causes, may cause, or is alleged to have caused injury or death of another person;
2. Any use of force technique, such as Pressure Point Control Tactics (PPCT), strikes, pain compliance, or takedowns used against an individual to gain compliance;
3. Other than with shackled prisoners, any time leg restraints are used to restrain a suspect who is demonstrating active aggression or actions which may harm himself/herself (this does not pertain to shackled prisoners being transported to/from jail or court.);
4. Pointing a lethal weapon at an individual when attempting to obtain compliance;
5. Any use of a department-issued impact weapon or any use of Oleo Resin Capsicum spray against an individual;
6. Any discharge of a less-lethal shotgun against an individual;
7. Any Primary Function or Secondary Function use of a TASER, as defined in Erie Police Department Written Directive 020.003, against an individual; or
8. Any discharge of a firearm or use of a lethal weapon against an individual.

Force will not include the simple drawing of a weapon and holding it at the ready position unless a subject is covered by the muzzle of a firearm. However, it is considered a use of force when a firearm or CEW is used to gain compliance.

The standard practice of handcuffing by a member of the Erie Police Department is not considered a use of force.

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

CACP STANDARD 20.2

REASONABLE BELIEF: When facts or circumstances the officer reasonably believes, knows, or should know are such as to cause an ordinary and prudent police officer to act or think in a similar way under similar circumstances.

BODILY INJURY: Physical pain, illness, or any impairment of physical or mental condition.

CACP STANDARD 20.2

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 (to include breaks or fractures of hard tissue such as bone, teeth, or cartilage), or burns of the second or third degree.

CIT OFFICER: An officer who has attended and graduated from a Crisis Intervention Team training course to help police officers react appropriately to situations involving mental illness or developmental disability.

STATE STATUTES: 18-1-707 - Use of physical force in making an arrest or in preventing an escape -

1. Except as provided in subsection (2) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent he/she reasonably believes it necessary:

- a. To effect an arrest or to prevent the escape from custody of an arrested person unless he/she knows the arrest is unauthorized; or
- b. To defend himself/herself or a third person from what he/she reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

2. A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he/she reasonably believes it is necessary:

- a. To defend himself/herself or a third person from what he/she reasonably believes to be the use or imminent use of deadly physical force; or
- b. To effect an arrest, or to prevent the escape from custody, of a person whom he/she reasonably believes:
 - i. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
 - ii. Is attempting to escape by the use of a deadly weapon; or
 - iii. Otherwise indicates, except through a motor vehicle violation, that he/she is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

3. Nothing in subsection (2) (b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he/she is not seeking to arrest or retain in custody.

4. For the purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances, which if true, would in law constitute an offense. If the believed facts and circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid.

CASE LAW: Colorado law does not require an officer to retreat from an attack rather than resorting to physical force. A peace officer is expected to take appropriate action to handle a situation and is authorized to use the reasonable and appropriate force necessary to overcome resistance. The degree of force required may be different in different situations (Boykin V. People, 22 CO. 496, 45 P. 419).

Law enforcement officers are permitted to use force to affect an arrest only to the extent it is "objectively reasonable" under the circumstances (Graham v. Connor, 490 U. S. 386, 397, 109 S.Ct.1865, 104 L.Ed.2d 443).

PROCEDURES:

I. USE OF FORCE CONSIDERATIONS

CACP STANDARD 20.2 & 50.1

A. In compliance with CRS 18-1-707(1), officers of the Erie Police Department may use reasonable and appropriate physical force upon another person in the following situations:

1. To effect a lawful arrest or to prevent the escape from custody of a lawfully arrested person; or
2. To defend himself/herself or a third person from what the officer reasonably believes to be the imminent use of, or use of unlawful physical force.

CACP STANDARD 20.2

B. Factors to determine "objectively reasonable" force options.

1. The reasonableness of an officer's use of force under the Fourth Amendment requires careful attention to the totality of the facts and circumstances known by the officer prior to using force, including:
 - a. The severity of the crime at issue;
 - b. Whether the suspect poses an immediate threat to the safety of the officer(s) or others; and
 - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

- C. Each situation is unique. Sound judgment and the circumstances of each situation will dictate the force option the officer deems necessary. Depending on the circumstances, officers may find it necessary to escalate or de-escalate the use of force. It is not the intent of this directive to require officers to attempt to exhaust each option before moving to the next, so long as the level of force used is reasonable and appropriate under the circumstances.

CACP STANDARD 20.12

- D. The level of force employed must be commensurate with the threat posed by the suspect and the seriousness of the immediate situation. It is recognized and understood circumstances are fluid and may change rapidly. Officers should rely on their training, experience, and assessment of the situation, to decide the appropriate level of force.
- E. Officers may consider disengaging, repositions, cover, concealment, barriers or retreat, when reasonable. Officers should keep in mind the safety of other officers and persons in the vicinity. While these options are not required by law, they may be tactically preferable.
- F. The value of all human life should be appropriately weighed in the decision process. Above all, the safety of the public and the officer must be the overriding concern whenever the use of force is considered.
- G. During arrest or conflict situations, officers will remain alert to the possibility of de-escalation of force and will invoke such procedures when appropriate.
- H. Officers should always consider the possibility of retreating and making an arrest at a later time should circumstances indicate this as an appropriate option.
- I. Officers should also recognize the length of time spent at each level of force is often dictated by the circumstances and there is no requirement to move from one level to the next based on a time frame. The level of force used should be based on the level of resistance encountered.
- J. When confronted by a suspect armed with a deadly weapon, including edged weapons, an officer should weigh the totality of the facts and circumstances of each situation. Practical considerations may include, but are not limited to, the proximity of the suspect to the officer(s) and other persons, how rapidly the circumstances are evolving and the use of force options which may be necessary, appropriate and available.

II. USE OF FORCE OPTIONS

- A. **Utilizing a CIT officer:** Whenever an officer learns, through his/her observations or otherwise, a person with whom the officer is dealing may be mentally ill, developmentally disabled, or emotionally disturbed and he/she has not had CIT training, the officer will, if time and circumstances reasonably permit and dictate, contact dispatch and request a CIT officer respond to the scene. If time and circumstances reasonably permit, officers will use distance, time, verbal tactics, or other tactics, to de-escalate the situation when dealing with such persons. When a CIT

officer arrives on the scene, he/she should be the primary officer unless determined otherwise by the CIT officer or a senior officer.

B. Verbal direction or soft empty hand control, (escort techniques): May be used when slight and directional force is required when encountering psychological intimidation, verbal noncompliance, passive resistance, or defensive resistance. This type of action may not require completion of a Town of Erie Police Department Use of Force Report as long as the suspect does not claim injury and the supervisor is fully advised.

C. Soft empty hand techniques: Control holds, or pressure points may be used when an individual offers passive resistance, defensive resistance, or active aggression.

D. Pain compliance: Control holds, pressure point control tactics, take downs, strikes and/or distraction techniques relying on pain compliance, may be used when an individual offers defensive resistance or active aggression.

E. Chemical Agents:

1. OC pepper spray may be used when an individual is actively aggressive.

2. OC pepper spray may also be used against individuals who are defensively resistant and have been given a warning OC pepper spray will be used if they do not cease the resistance or refuse to disperse in a riot situation.

3. OC pepper spray is not used on passively resistant protestors, or on persons who are in handcuffs, without prior Command Staff authorization.

4. Chemical agents such as OC pepper-based or CS-based agents may be used to help resolve barricaded suspect, hostage, crowd control, or other high-risk situations in which the use of such agents would likely help resolve the situation and reduce the risk of injury to officers and other persons.

F. Conducted Energy Weapons (CEWs): May be used in accordance with the guidelines in Written Directive 20.003 Conducted Energy Weapons.

G. Impact weapons, strikes, kicks and take downs: Techniques including batons, defensive techniques including takedowns, strikes and kicks and all levels of force, short of deadly force, may be used when an individual offers active aggression; or

A baton may be used when use of a baton is necessary to gain control over an individual who is resisting officers' efforts and other means of gaining compliance are not effective. In this situation, officers use a technique and level of striking force appropriate for the given level of resistance. Officer safety, public safety and the totality of circumstances are to be considered prior to using a baton in these circumstances.

H. Less-lethal Shotgun: Impact projectiles may be used on individuals who are reasonably believed to be armed with a deadly weapon or dangerous object capable of causing serious bodily injury or death. See Written Directive 020.002, Less Lethal Impact Weapons.

- I. **Objects as Weapons:** An officer may not use objects as weapons unless an individual uses active aggression and authorized weapons are not immediately accessible or are ineffective.
- J. **Neck Restraints:** The use of neck restraints is prohibited, unless an officer would otherwise be authorized to use deadly force.

No officer shall carry or, under normal circumstances, use any type of weapon in the line of duty or in his/her capacity as a police officer unless it is approved by the Erie Police Department and the officer has obtained appropriate training in the use of the weapon. No officer shall, in any material way, modify or alter an approved weapon without the approval of the Chain of Command.

III. LETHAL FORCE

CACP STANDARD 20.2

- A. In compliance with CRS 18-1-707 (2), officers of the Erie Police Department may use deadly physical force upon another person in the following situations:
1. To defend himself/herself or a third person from what he/she reasonably believes to be the use of or imminent use of deadly physical force; or
 2. To effect an arrest, or to prevent the escape from custody, of a person whom he/she reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon, or is attempting to escape by the use of a deadly weapon, or otherwise indicates, except through a motor vehicle violation, that he/she is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.
- B. Firearms shall not be discharged at a moving or fleeing vehicle unless deadly force is being used against the police officer or another person present by means other than the moving vehicle.
- C. Officers shall exercise good judgment and not move into or remain in the path of a moving vehicle. Moving into or remaining in the path of a moving vehicle, whether deliberate or inadvertent, shall not be justification for discharging a firearm at the vehicle or any occupant. An officer in the path of a vehicle shall attempt to move to a position of safety rather than discharging a firearm at the vehicle or any of the occupants.
- D. Firing at moving vehicles solely based on the threat presented by the vehicle is prohibited for the following reasons:
1. Firing at a moving vehicle may have very little impact on stopping the vehicle.
 2. Disabling the driver may result in an uncontrolled vehicle and the likelihood of injury to occupants of the vehicle (who may not be involved in the crime) may be increased when the vehicle is either out of control or shots are fired into the passenger compartment.
- E. It is understood the policy in regards to discharging a firearm at a moving vehicle, like all written policies, may not cover every situation. Any deviations shall be examined on a case-by-case basis.

- F. Officers are discouraged from immediately approaching a stopped vehicle at the conclusion of a pursuit or other high-risk stop. Where reasonably possible, officers shall use the felony stop tactic.

IV. DUTY TO REPORT

CACP STANDARD 20.1 & 20.7

- A. Any officer involved in a use of force incident will complete a police report containing the following:
1. A detailed description of the actions of the subject(s) and/or officer(s) which led to the use of force;
 2. The level of resistance encountered by the officer(s);
 3. The level of force used by the officer(s) to overcome resistance:
 - a. To include type of weapon used if any; and
 - b. Injuries to subject(s) or officer(s);
 4. Names, dates of birth and addresses of witnesses to the incident.
- B. Anytime a subject is injured, is suspected of being injured, or complains of injury, the subject shall be photographed to include the areas of all visible and/or alleged injuries.
- C. Whenever an officer uses force against an individual, the officer will notify the on-duty supervisor or officer in charge.
- D. The on-duty supervisor or officer in charge notified of a use of force shall, as soon as reasonably practical, notify a Command Staff Officer of the incident involving the use of force.
- E. Notification of a Command Staff Officer shall be done immediately if there is any injury to an arrestee or indications the incident may result in media inquiries and as soon as reasonably possible in other cases, but in no case later than the following business day after the incident.
- F. A Command Staff Officer who is notified of a use of force will determine if it is necessary to have a supervisor or other personnel not involved in the use of force incident respond to the scene to conduct a thorough investigation.
- G. A supervisor or Command Staff Officer shall respond to the scene of all use of force incidents involving life-threatening or serious bodily injury to a suspect which requires medical attention.
- H. The Boulder County Investigation Team or Weld Critical Incident Response Team, both which are multi-jurisdictional investigative teams, may be utilized at the discretion of the Chief of Police to investigate any incident in which a law enforcement officer is shot, a law enforcement officer uses deadly force against another person, or there is an in-custody death or serious injury to a suspect. Should the team from either Boulder County or Weld County be called to respond, the on-scene supervisor should provide oversight for the following:
1. Ensure immediate medical attention is provided to any injured person.

2. Protect scene integrity by creating a secure perimeter.
 3. Place the involved officer(s) in separate vehicles (front seat only) pending transport to a determined location. If possible, an officer will be assigned to each involved officer and will remain with the involved officer until relieved. The involved officer(s) should be permitted to phone a family member as soon as practical. No sensitive information should be released without authorization.
 4. Identify all witnesses and, whenever possible, detain them for interviews by the investigative team members. If that is not possible, collect full names, addresses, phone numbers and other information.
 5. Facilitate briefing the supervisor(s) of the responding investigative team.
 6. In case of an officer-involved shooting, the scene should be secured and all officer(s) who discharged a weapon shall be taken to a designated location to meet with members of the investigative team. The weapon(s) of the involved officer(s) will remain with them until photographs have been taken and collected by a member of the investigative team.
 7. Other weapon(s) at the scene, related to the shooting which were not in the possession of the involved officer(s) should not be moved or disturbed. A member of the investigative team will meet with the EPD supervisor or Officer in Charge (OIC) and collect the weapon(s) at the scene and/or at a designated location.
 8. As soon as staffing allows, officers who were on scene and witnessed any portion of the event (but did not discharge a weapon) will be taken to a designated location to meet with the investigative team.
 9. In collaboration with the Chief of Police or their designee and the District Attorney, a determination will be made as to when the officer(s) involved will be interviewed.
 10. Media inquiries should be directed to the Chief of Police or their designee (Deputy Chief, Commander or PIO).
 11. For other specific details, see the Boulder County and Weld County Investigative Team protocols.
- I. When responding to the scene of a use of force incident the supervisor or Command Staff Officer will direct the investigation to include interviewing witnesses and suspects, collecting evidence and taking photographs when appropriate.
- J. The supervisor will assist in preparing the Town of Erie Police Department Use of Force Report. (See Attached)
- K. All use of force reports will be reviewed by the Deputy Chief, a Commander, or designee for the following:
1. To determine if appropriate tactics were used;

2. To determine if the level of force used was appropriate to overcome the resistance or threat encountered;
 3. To determine if department directives were followed; and
 4. To determine if the incident was documented adequately.
- L. Upon the completion of any respective District Attorney's investigation, the Erie Police Department will conduct an Administrative Review to determine compliance with the department's written directives and protocols.
- M. The Commander will maintain statistics based on information obtained throughout the year and will make a year-end report of all uses of force.

CACP STANDARD 20.4

- N. All sworn personnel will be issued copies of this directive and will receive instruction on this directive prior to being authorized to carry any department weapon.

CACP STANDARD 60.14

- O. Training and review of this directive will take place for all officers on an annual basis.

V. DUTY TO REPORT USE OF EXCESSIVE FORCE

In compliance with CRS 18-8-802, Erie Police Officers will make an immediate report to their supervisor and make a written report any time an observation is made of a peace officer who, in the pursuance of such officer's 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.

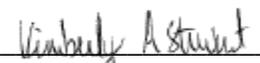
RULES:

CACP STANDARD 20.5

OFFICERS WILL NOT FIRE WARNING SHOTS OR DISCHARGE THEIR FIREARMS WHILE TRAVELING IN A MOVING VEHICLE.

REFERENCES:

- Greeley, CO Police Department General Order 516.00 June 18, 1992
Lamar, CO Police Dept. Written Directive #500.00 February 14, 1994
Colorado Revised Statutes amended
Boulder Police Department General Order 225, May 10, 2011
Denver Police Department Operations Manual section 105 2013, 2014 and 2015



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