



# LONGMONT DEPARTMENT OF PUBLIC SAFETY

Policy ###

SECTION: Operations – Fire, Police and CHR	ITEM #: TBD
TITLE: Use of Force – Medical Emergency	DATE: 02/04/2021
STATUS: Active	REVIEW: 02/04/2023

## POLICY:

The purpose of this Policy is to provide direction to fire/ems, Community Health Resilience (C.H.R.), and police services on the use of force during a medical emergency. The Longmont Department of Public Safety (LDPS) is committed to upholding the civil rights of all individuals, protecting human life and property, and maintaining civil order. The LDPS's commitment to public safety includes ensuring the welfare of members of the public, its officers, and professional staff, with an emphasis on the sanctity of life. LDPS recognizes that this commitment may require members to use force during a medical emergency. The community expects, and the LDPS requires members to use only the objectively reasonable force necessary to control a person suffering a medical emergency and overcome any resistance from the subject without causing unnecessary additional injuries.

While the ultimate objective is to protect the public, nothing in this Policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.

## SCOPE:

This Policy is intended for use by all Longmont Department of Public Safety personnel, including transport agencies, when caring for and restraining individuals suffering a medical emergency and resisting treatment.

## DEFINITIONS / Colorado Revised Statutes (C.R.S.):

**Medical emergency** – A subject experiencing a medical emergency which renders a person incapable of making a rational decision under circumstances and their actions, combative behavior, or resistance poses an immediate threat of serious harm to the person or others, and their medical condition will not be resolved by leaving them alone.

C.R.S. 24-31-901 - (4) "Physical Force" as the application of physical techniques or tactics, chemical agents, or weapons to another person.

C.R.S. 18-1-703 – (1) The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(d) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result.

(e) A duly licensed physician, advanced practice nurse, or a person acting under his or her direction may use reasonable and appropriate physical force for the purpose of administering a recognized form of treatment that he or she reasonably believes to be adapted to promoting the physical or mental health of the patient if:

(I) The treatment is administered with the consent of the patient, or if the patient is a minor or an incompetent person, with the consent of his parent, guardian, or other person entrusted with his care and supervision; or

(II) The treatment is administered in an emergency when the physician or advanced practice nurse reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

Mental Health Hold – A certified police officer; medical professional; a registered nurse; a licensed counselor or marriage and family therapist; a licensed clinical social worker; or the court in response to a petition may place a 72-hour hold on an individual whose mental health disorder appears to present an imminent danger to him or herself or others.

## **PROCEDURE:**

When members decide to restrain a combative or resistive subject suffering a medical emergency, members should consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

- 1) medical condition;
- 2) mental impairment;
- 3) developmental disability;
- 4) physical limitation;
- 5) language barrier;
- 6) drug or alcohol impairment; and

## 7) mental health crisis.

Unless it would present a danger to the member(s) or others, members should issue a clear and intelligible verbal warning or attempt to utilize hand signals where there is a language barrier, or the subject is deaf or hard of hearing, before using any force.

Members should describe the warning given in their reports. If no warning was given, members should justify the lack of warning.

### **FORCE:**

When determining to use any force, members must balance the individual's Fourth Amendment rights against the government's interest. Under no circumstances will a member use force solely because another member is using force.

Members should at least consider the following criteria in deciding to use force:

**Threat or Level of Physical Resistance** - Whether the individual poses an immediate threat or danger to the safety to themselves, others, or the members of LDPS. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.

**Severity of the Resistance** - The severity of the resistance. If the resistance has caused injury to staff or others, LDPS staff can take measures to protect themselves or others.

When force is used, the amount of force used should be reduced as resistance decreases. In cases involving verbal and other levels of resistance that do not rise to a level of assault, members should limit their force to physical restraint and control.

Strikes, punches, pressure point control, or use of less-lethal, chemical agents, batons, ECD's are counterproductive in a medical emergency and will likely cause additional injury. These techniques should only be used when protecting oneself or others from a physical assault.

LDPS staff must remember the above factors should be considered, and the reasonableness of the force is not limited to these factors only, and force will be evaluated under the totality of the circumstances.

### **MEMBER CONSIDERATIONS:**

Members should recognize that their approach to confrontations may influence whether force becomes necessary and the amount of force that must be used.

Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with LDPS training without a substantial justification for variation from recommended practices.

When feasible and safe, members should allow individuals time to submit and cease being a threat to themselves and/or others before force is used.

During a confrontation with an individual known or perceived to be in mental health crisis, members must recognize and reasonably balance the governmental interest in providing care to the individual with the need for force. Members should call in specialized units when practical.

If a member has a reasonable belief that a subject is about to commit suicide or inflict serious bodily injury upon him or herself, he or she may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result, pursuant to C.R.S. 18-1-703(1)(d).

#### **ADDITIONAL RESPONSIBILITIES:**

Any injuries caused by a use of force should be photographed if possible and when safe.

When force is used to control a person suffering a medical emergency, members will complete a report documenting the use of force and submit the report through their chain of command for review.

**After force is used, any necessary medical treatment will be given as soon as practicable.**

#### **ADDITIONAL SUPERVISORY RESPONSIBILITIES:**

It is the responsibility of the member's first-line supervisor to review the involved members' actions, including asking follow up questions or reviewing statements, audio/video recordings, if necessary, and then offer a conclusion as to compliance with applicable policies and procedures, training, city administrative regulations, Longmont Municipal ordinances, state statutes, established case law and/or applicable federal law.

Reviews are to be comprehensive. In judging whether a member's actions were reasonable, supervisors must also consider the risk of bodily harm the member's actions posed to the suspect and the community in light of the need to intervene. In addition, supervisors should consider the use of force from the perspective of the involved member, rather than with 20/20 hindsight, and remember the dynamics of split-second judgments in circumstances that are tense, uncertain and rapidly evolving.

It is the responsibility of the member's chain of command, to include the Professional Standards Unit Sergeant, to review the first-line supervisors recommendations and review the members' actions, including asking follow up questions or reviewing

statements, and then offer a conclusion as to compliance with applicable policies and procedures, training, city administrative regulations, Longmont Municipal ordinances, state statutes, established case law and/or applicable federal law. It is only necessary for the member's chain of command to review audio/video recordings if the member's chain of command is notified of a concern or, in the opinion of the reviewer, the reports do not thoroughly support the use of force.

The justification for the use of any physical force must be limited to what reasonably appears to be the facts, known or perceived, at the time, the decision to use force was made. Facts, unknown to the member, no matter how compelling, cannot be considered in later determining whether the use of force was justified. In addition, the member's decisions and actions leading up to the decision to use force must also be considered.

The following steps, where appropriate, are to be taken when the member's chain of command has completed their review and submitted their findings:

- a. If the use of force is found to be within Policy, the use of force documentation is to be forwarded to the Professional Standards Unit (P.S.U.). P.S.U. will review the use of force review to ensure it is complete and that the findings are within Policy. P.S.U. will also collect data from the use of force event for inclusion in the quarterly/annual Use of Force Report. If, after review, P.S.U. believes the use of force violated Policy, P.S.U. will advise the Chief of Public Safety.
- b. If the use of force is found to be outside of Policy, the Chief of Public Safety will (1) ensure that the most appropriate non-disciplinary corrective action is taken or (2) will forward the matter to P.S.U. and the Chief of Public Safety for consideration on whether or not a Professional Standards Investigation is initiated.
- c. If the review process indicates training concerns, whether individual-based or division wide-based, the Chief of Public Safety and/or P.S.U. will forward those concerns to the appropriate use of force options training coordinator. The training coordinator will address and/or rectify the training issue.
- d. If the review process indicates policy, procedure, tactical or equipment concerns, the Chief of Public Safety, or their designee, will ensure those concerns are addressed with the appropriate personnel.