

Document: C.R.S. 18-1-707

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Colorado Revised Statutes Annotated Title 18. Criminal Code (Arts. 1 — 26) Article 1. Provisions Applicable to Offenses Generally (Pts. 1 — 11) Part 7. Justification and Exemptions from Criminal Responsibility (§§ 18-1-701 — 18-1-714)

18-1-707. Use of force by peace officers - definitions.

(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 injury to the peace officer or another person.

(1.5)

(a) Pursuant to section 18-8-805 (1) and (2)(a)(I), peace officers shall not use, direct, or unduly influence the use of ketamine upon another person nor compel, direct, or unduly influence an emergency medical service provider to administer ketamine. If a peace officer violates this prohibition, the district attorney may charge the officer with any crime based on the facts of the case.

(b) As used in this subsection (1.5), unless the context otherwise requires, “unduly influence” means the improper use of power or trust in a way that deprives a person of free will and substitutes another’s objective.

(c) Notwithstanding subsection (1.5)(a) of this section, a peace officer who is also certified as an emergency medical service provider may administer ketamine pursuant to the restrictions set forth in section 25-3.5-209 and when the decision to administer ketamine is based on the emergency medical service provider’s training and expertise.

(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 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.

(b)

(I) As used in this subsection (2.5), "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.

(II) "Chokehold" also means applying pressure to a person's neck 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.

(3) 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 of death or serious bodily injury 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 or 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.

(5) Except as provided in subsection (6) of this section, a person who has been directed by a peace officer to assist him to effect an arrest or to prevent an escape from custody is justified in using reasonable and appropriate physical force when and to the extent that he reasonably believes that force to be necessary to carry out the peace officer's direction, unless he knows that the arrest or prospective arrest is not authorized.

(6) A person who has been directed to assist a peace officer under circumstances specified in subsection (5) of this section may use deadly physical force to effect an arrest or to prevent an escape only when:

(a) He reasonably believes that force to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) He is directed or authorized by the peace officer to use deadly physical force and does not know, if

that happens to be the case, that the peace officer himself is not authorized to use deadly physical force under the circumstances.

(7) A private person acting on his own account is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to effect an arrest, or to prevent the escape from custody of an arrested person who has committed an offense in his presence; but he is justified in using deadly physical force for the purpose only when he reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.

(8) A guard or peace officer employed in a detention facility is justified:

(a) In using deadly physical force when he reasonably believes it 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 as such facility is defined in subsection (9) of this section;

(b) In using reasonable and appropriate physical force, but not deadly physical force, in all other circumstances when and to the extent that he reasonably believes it necessary to prevent what he reasonably believes to be the escape of a prisoner from a detention facility.

(9) "Detention facility" as used in subsection (8) of this section means any place maintained for the confinement, pursuant to law, of persons charged with or convicted of an offense, held pursuant to the "Colorado Children's Code", held for extradition, or otherwise confined pursuant to an order of a court.

(10) Repealed.

History

Source: L. 71:R&RE, p. 410, § 1.**C.R.S. 1963:**§ 40-1-807. L. 75:(2)(b) R&RE, p. 616, § 2, effective July 21. L. 2016:IP(1), (3), and (4) amended and (2.5) added,(HB 16-1264), ch. 341, p. 1390, § 1, effective July 1. L. 2020:(2.5) and (3) R&RE and (10) added,(SB 20-217), ch. 110, pp. 454, 456, §§ 5, 7, effective June 19; (1), (2), and (4) R&RE and (4.5) added,(SB 20-217), ch. 110, p. 454, § 5, effective September 1. L. 2021:(1) and (3)(b) amended,(HB 21-1250), ch. 458, p. 3063, § 8, effective July 6; (1.5) added,(HB 21-1251), ch. 450, p. 2959, § 3, effective July 6.

▼ Annotations

Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 18

C.R.S. Title 18, Art. 1

State Notes

Notes

Editor's note:

Subsection (10)(b) provided for the repeal of subsection (10), effective January 1, 2021. (See L. 2020, p. 456.)

ANNOTATION

Law reviews.

For article, "Self-Defense in Colorado", see 24 Colo. Law. 2717 (1995). For article, "Constitutional Issues in the Criminal Prosecution of Law Enforcement Officers", see 33 Colo. Law. 55 (March 2004). For article, "Police Use of Force Standards Under Colorado and Federal Law", see 36 Colo. Law. 47 (May 2007).

Annotator's note.

Since § 18-1-707 is similar to former § 40-2-16, C.R.S. 1963, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

Officer may use reasonable force to protect himself or detain offender.

An officer who is making a lawful arrest, or has made an arrest, is justified in using such force as is reasonably necessary to secure and detain the offender, overcome his resistance, prevent his escape, recapture him if he escapes, and to protect himself from bodily harm; but he is never justified in using unnecessary force or treating his prisoner with wanton violence, or in resorting to dangerous means when the arrest could be effected otherwise. *People ex rel. Little v. Hutchinson*, 9 F.2d 275 (8th Cir. 1925).

Officer cannot use excessive force

in making an arrest or bringing one into submission. *McDaniel v. People*, 179 Colo. 153, 499 P.2d 613, cert. denied, 409 U.S. 1060, 93 S. Ct. 558, 34 L. Ed. 2d 512 (1972).

Officer is not required to retreat.

A police officer who is assaulted by one whom he is lawfully attempting to arrest is not required to retreat to the wall before resorting to such defensive measures as may reasonably seem necessary to protect himself against loss of life or great bodily injury. *Boykin v. People*, 22 Colo. 496, 45 P. 419 (1896).

Authority to take life based on apparent necessity.

This section does not clothe an officer with authority to judge arbitrarily that it is necessary to take life in order to prevent the rescue of his prisoner. He is not warranted in taking life unless there is an apparent necessity for it and if he does so he is not permitted to take shelter behind his official character. *Campbell v. People*, 55 Colo. 302, 133 P. 1043 (1913).

Use of force is ordinarily a question for jury.

An officer who intentionally uses more force than is reasonably necessary in making an arrest is oppressively discharging the duties of his office. What amounts to reasonable force depends upon the facts of each particular case and is ordinarily a question of fact for the jury. *People ex rel. Little v. Hutchinson*, 9 F.2d 275 (8th Cir. 1925); *People v. Fuller*, 756 P.2d 390 (Colo. App. 1987), *aff'd in part and rev'd in part on other grounds*, 781 P.2d 647 (Colo. 1989).

The question of the absence or existence of the necessity to take the life of a prisoner is finally for the jury. *Campbell v. People*, 55 Colo. 302, 133 P. 1043 (1913).

Police officer's actions were not within section.

Where complaining witness remarked that the police officer was "some kind of a pig" when the officer twice refused to tell the complaining witness why he was being arrested and the officer reacted by pulling his revolver on the complaining witness, the officer's actions were not within the statute authorizing the use of deadly physical force. *Johns v. District Court*, 192 Colo. 462, 561 P.2d 1 (1977).

Before a private person can use physical force to effect an arrest pursuant to subsection (7), the arrest must first be authorized under § 16-3-201.

People v. Joyce, 68 P.3d 521 (Colo. App. 2002).

In addition, the person on whom physical force is used under subsection (7) must have either committed a crime in the presence of or attempted escape from custody in the presence of the person using the physical force.

People v. Joyce, 68 P.3d 521 (Colo. App. 2002).

Research References & Practice Aids

Cross references:

- (1) For the "Colorado Children's Code", see title 19.
- (2) For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of Colorado 2020.

Colorado Revised Statutes Annotated

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