

# Colorado Department of Revenue Specialized Business Group

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To: Cory Amend, Specialized Business Group Senior Director CAA  
From: Carolyn Berry, Office of Professional Standards Manager CDB  
Subject: 2021 Office of Professional Standards Annual Report

## SUMMARY

The Specialized Business Group (SBG) investigated two (2) administrative/internal/citizen complaints filed against its employees from January 1 through December 31, 2021. While only two complaints were investigated, each complaint contained multiple allegations.

In May of 2019, the Office of Professional Standards was created to operate within the Specialized Business Group Senior Director's Office. The 2020 reporting cycle is the second year in which investigations were tracked and recorded for all five enforcement divisions by the Office of Professional Standards. Each investigation assigned to the Office of Professional Standards is assigned a tracking number and may include more than one administrative charge.

In 2021, the Office of Professional Standards assigned and tracked all complaints assigned to the division. It is important to note that not all complaints involving personnel with the enforcement section were investigated by the Office of Professional Standards. Some investigations were handled by supervisors, Internal Audit, and Human Resources. A standard operating procedure was created and implemented in 2019, outlining different categories of complaints. As the process is still currently being implemented and developed, only complaints investigated by the Office of Professional Standards were assigned a case number and tracked for purposes of this report.

## FINDINGS DEFINITIONS

In accordance with the Office of Professional Standards, standard operating procedure, the findings are defined as follows:

**Exonerated:** The incident occurred but was lawful and proper.

**No Finding:** When a use of force incident is reviewed to ensure excessive force was

not used.

**Not substantiated:** There is insufficient evidence to prove or disprove the allegation occurred.

**Substantiated:** The allegation is supported by sufficient evidence to justify a reasonable conclusion that the allegation is factual.

**Unfounded:** The allegation is unfounded in that it has been proven to be false or not factual.

### **BIASED-BASED PROFILING ALLEGATIONS**

The Specialized Business Group investigated zero (0) allegations of biased-based policing.

### **COMPLAINT/ADMINISTRATIVE CHARGE DISPOSITIONS**

<b>Allegation</b>	<b>Finding</b>	<b>Count</b>
<b>Policy Violation</b>		
Code of Conduct	Sustained	7
DOR-050 Use of Force and Firearms Policy	Sustained	1
Code of Conduct	No Finding	1
Misuse of Authority	No Finding	2
Misuse of State Resources	No Finding	4
Failure to Secure Firearm	No Finding	2
Misuse of Information	No Finding	1
<b>Total number of sustained findings</b>		<b>8</b>

### **2021 USE OF FORCE REPORTS ANNUAL ANALYSIS**

The Office of Professional Standards is the departmental repository for all Use of Force Reports in May 2019. It is tasked with reviewing reports generated by department employees who have reported a use of force incident.

Departmental policy, DOR-050 - Use of Force and Firearms, defines what is required when force is employed.

During the 2021 legislative session, House Bill 21-1250 requiring police reform was passed. Several new requirements were statutorily mandated, affecting how law enforcement agencies track the use of force incidents, train, respond to and use force,

and report excessive use of force, along with requirements to intervene in excessive use of force incidents.

New training was launched on the Department of Revenue (DOR) learning management system (LMS), highlighting the new statutory requirements around use of force, what is considered force, what is considered excessive use of force, how to report excessive use of force, and definitions for DOR sworn peace officers. All sworn peace officers have taken and passed the training. The annual firearms exam was also updated to reflect the new statutory changes in use of force, use, and reporting.

SBG has implemented a tracking system for all use of force incidents and show of force incidents. Show of force is defined as anytime a firearm or intermediate weapon is unholstered (removed from the approved secure carrying holster) but not used to gain compliance of a suspect failing to obey lawful orders. A use of force is defined as anytime force other than soft empty-hand control techniques are used to gain compliance of a suspect failing to obey lawful orders. All reports are entered into the BlueTeam web application by the sworn peace officer who initiated the incident and approved by the chain of command.

During 2021, use of force and show of force totals

Use of Force	5
Show of Force	5
Excessive Use of Force	0

The five (5) use of force incident was determined to be within policy.

#### **2020-024 – use of force – DOG**

DOG investigators responded to a casino regarding a report of theft. Upon arrival, they searched for the individual in numerous areas. The casino surveillance staff stated that the individual appeared near the bottom in the stairwell. DOG investigators responded to the stairwell and found the individual crouched underneath the stairs. They could not see his arms or determine if he was armed. The DOG investigators drew their weapons and gave verbal commands to the individual. The individual complied and was taken into custody without further incident.

#### **2020-025- use of force – DOG**

DOG investigators responded to a call from the Cripple Creek Police Department regarding an assault on officers. The Cripple Creek Police Department was able to take one of the two individuals into custody. DOG investigators later identified and contacted the male individual from the assault. The individual was in their vehicle at the time. The DOG investigator drew their weapon and gave verbal commands to the driver (individual). The driver drove forward and was prevented from going further by a barb wire fence. The driver was commanded to exit the vehicle by the DOG investigator and the Chief of Cripple Creek Police Department. Weapons were drawn during the incident. The individual complied and was taken into custody without further incident.

### **2021-24 – use of force – DOG**

DOG investigators asked to speak with an individual about a suspected theft. The individual was approached at his car. During the interaction, the individual lunged forward, causing the DOG investigator to use force to maintain control of the individual. During the altercation, a crowd gathered, chanting to release the individual. The situation was dangerous to the DOG investigator and patrons. The individual was released, and warrants for his arrest were later secured.

### **2021-26-use of force – DOG**

DOG investigators were dispatched to a casino where a person had won a jackpot of approximately \$1,400.00, and a female attempted to claim the jackpot. The male who won the jackpot attempted to flee when approached. Black Hawk Police Department (BHPD) attempted to tase the individual but was unsuccessful. It took several officers from BHPD and DOG to detain the individual and make the arrest.

### **2021-32 – use of force – DOG**

DOG investigators responded to a casino regarding the theft of credits. The DOG investigator responded and contacted a visibly intoxicated individual who was making offensive remarks towards casino staff. The casino manager requested the individual be removed from the premises for disrupting other patrons and casino staff. DOG contacted Gilpin County Dispatch requesting assistance from Black Hawk Police Officers. Black Hawk Police Department (BHPD) responded immediately; the individual became increasingly uncooperative and refused to provide identification. BHPD attempted to escort the individual off the premises, at which point he became physically aggressive. DOG assisted BHPD in gaining control of the individual. The individual was taken to the ground by applying a bent wrist/rear wrist lock to handcuff him. No medical attention was deemed necessary and/or requested.

The five (5) show of force incidents were determined to be within policy.

### **2020-028 – show of force incident – DOG**

DOG investigators were backing the Gilpin County Sheriff's Office on a call of arguing and shots fired. All responding officers unholstered the weapon to clear the building. No shots were fired from any officer responding to the call.

### **2021-19 – show of force incident – DOG**

DOG investigators responded to a casino on a report of theft. They encountered the individual suspected of the theft. The individual took off on foot and was pursued by DOG investigators. The individual was eventually contacted but would not comply with removing their hands from their pockets until the DOG investigator drew their weapon. The weapon was not used, but in drawing the weapon, the individual did comply with commands and was taken into custody.

### **2021-20 – show of force incident – DOG**

DOG investigators were responding to a theft at a casino. The individual involved in the theft was gone at the time of arrival. However, the individual was seen several times

during the night, and DOG investigators responded to the locations. The individual was gone each time. The individual was identified in a vehicle. The DOG investigator approached the vehicle and identified himself. The individual then put the vehicle in reverse and almost struck the investigator. The investigator their weapon and provided verbal commands to the individual. The individual complied and was taken into custody.

#### **2021-21 – show of force incident – DOG**

DOG investigators backed the Gilpin County Sheriff's Office on a call at a casino regarding a stolen car. The individual was contacted by Gilpin County Sherriff's Office and DOG. A high-risk felony stop was completed where all law enforcement members drew their weapons. The suspect complied, no weapons were discharged, and the DOG investigator used no force.

#### **2021-23 – show of force incident – DOG**

DOG investigators backed Black Hawk Police Department (BHPD) on a call involving a domestic violence suspect. The individual was contacted in his vehicle. All responding officers drew their weapons and provided verbal commands for the individual to exit the vehicle. The individual complied and was taken into custody.

#### **Firearm Discharge (other than training)**

- **None**

#### **USE OF FORCE TRAINING CONSIDERATIONS**

Consideration should be given to creating a training unit within the Specialized Business Group Senior Director's office. A training unit would be responsible for designing and implementing all firearms and arrest control training. This unit would provide consistency in training for all five enforcement divisions' sworn personnel. Consistent training would allow for sworn personnel to train more frequently, and any use of force that occurs within the policy would be more defensible in court.

During the report review of use of force and show of force incidents, it has been identified that a report writing course is needed across DOG. DOG has implemented a report writing training during the quarterly use of force training. If the need to create additional training is evident, additional training steps will be taken.

#### **Recommendations from the 2020 Annual report**

A recommendation to create a use of force review board was made in the 2020 annual report. A use of force board was created and was initiated on January 1, 2022.

### Comparisons from 2019, 2020, and 2021

	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Number of investigations per year</b>	12	0	2
<b>Number of sustained allegations per year</b>	3	0	8
<b>Number of employees who resigned in lieu of termination</b>	Unknown	0	1
<b>Number of use of force incidents</b>	2	1	5
<b>Number of show of force incidents</b>	Not tracked	2	5
<b>Excessive use of force incidents</b>	0	0	0