

Colorado Department of Revenue Specialized Business Group

February 21, 2023

To: Michael Phibbs, Specialized Business Group Senior Director
From: Carolyn Berry, Office of Professional Standards Manager
Subject: 2022 Office of Professional Standards Annual Report

SUMMARY

In May 2019, the Office of Professional Standards was created to operate within the Specialized Business Group Senior Director's Office. The 2022 reporting cycle is the third year in which investigations were tracked and recorded by the Office of Professional Standards for all five Specialized Business Group divisions (Auto Industry, Division of Gaming, Liquor Enforcement Division, and Division of Racing Events) and the Marijuana Enforcement Division (MED). Each investigation assigned to the Office of Professional Standards is assigned a tracking number and may include more than one administrative charge.

In 2022, 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 SBG or MED were investigated by the Office of Professional Standards. Some investigations were handled by supervisors, Internal Audit, or Human Resources. A standard operating procedure was created and implemented in 2019, outlining different categories of complaints.

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 Sustained: There is insufficient evidence to prove or disprove the allegation occurred.

Sustained: 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.

DOR SBG 2022 COMPLAINT/ADMINISTRATIVE CHARGE DISPOSITIONS

Allegation	Finding	Count
Policy Violation		
AOD-032 – State Fleet Vehicle	Sustained	1
DOR Code of Conduct	Sustained	1
DOR Code of Conduct	Not Sustained	1
Fleet Vehicle Manual	Sustained	1
DOR -050 Use of Force and Firearms	Not Sustained	1
Telematics	Sustained	1
DOG – I-101 – Directors Preface & Mission Statement	Sustained	1
DOG – I -102 – Code of Ethics	Sustained	1
DOG I-301 – Standards of Conduct	Sustained	1
DOG I-401 Driving Pursuit	Sustained	1
TGA - 001	Sustained	1
Total number of sustained findings		9

Complaint source	Count
Employee	3
Citizen	1
Other law enforcement agency	1

2022 USE OF FORCE REPORTS ANNUAL ANALYSIS

The Office of Professional Standards (OPS) is the departmental repository for all use of force and show of force Reports as of May 2019. OPS is tasked with reviewing reports generated by department employees who have reported a use or show of force incident.

SBG has implemented a tracking system for all use of force 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. 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.

2022 Use of Force and Show of Force Totals

Use of Force	8
Show of Force	5
Excessive Use of Force	0

2022 Use of Force Details

The eight (8) use of force incidents were determined to be within policy.

The following synopses are based on the reports and evidence provided in the case file. It is intended as a basic accounting of the situation and is not intended to be an analysis of the evidence or a perspective reporting or examination of the incident.

#2022-002 – Use of Force – DOG

December 25, 2021. A DOG Investigator responded to the call and met with the parties at the security office. A suspect was advised that he would need to leave the casino. As the Investigator and Casino security were escorting the suspect through the building, the suspect ran. A Casino security guard caught the suspect, and the two had a physical confrontation. The Investigator became involved in the confrontation in an attempt to subdue the suspect. With the assistance of security, the Investigator was able to handcuff the suspect. No injuries were reported. Determined to be within policy.

#2022-010- Use of Force – DOG

March 30, 2022. Two Division of Gaming (DOG) investigators responded to the Monarch Casino (Black Hawk) per the request of Black Hawk Police Department (BHPD) officers to assist with a fraud suspect. The DOG investigators assisted the BHPD officers in restraining and maintaining control of the suspect in an interview room at the casino. No injuries were reported. Determined to be within policy.

#2022-011 – Use of Force – DOG

May 22, 2022. At approximately 0210 hours, a DOG investigator responded to the Double Eagle Casino (Cripple Creek) per the request of Cripple Creek Police Department (CCPD) officers to assist with a domestic violence-related disturbance. DOG investigator located a suspect from the disturbance. The suspect attempted to walk away from the DOG investigator leading the investigator to take the suspect to the ground and place him in handcuffs. No injuries were reported. Determined to be within policy.

#2022-014 - Use of Force – DOG

On May 25, 2022. At approximately 1724 hours, DOG investigators were dispatched to the Wild Card Saloon (Black Hawk) in reference to a suspect wanted in a prior Fraudulent Acts case. The suspect was contacted and asked to go to the manager's office with the investigator. The suspect ran away from the DOG investigators. The suspect was able to get into her vehicle. The DOG investigators took hold of the suspect in the vehicle and continued to request that the suspect stop resisting. The suspect was detained. No injuries were reported. Determined to be within policy.

#2022-017 – Use of Force – DOG

May 1, 2022. Multiple DOG investigators responded to the Monarch Casino (Black Hawk) to assist BHPD officers with a suspect who had an outstanding warrant and was thought to be fighting with officers. A DOG investigator assisted a BHPD officer in restraining and maintaining

control of the suspect in the casino and placing the suspect in a BHPD vehicle. No injuries were reported. Determined to be within policy.

#2022-022 – Use of Force – DOG

August 31, 2022. A DOG investigator heard Gilpin County Deputy yelling for help while on a traffic stop. The suspect escaped from the Gilpin County Deputy and ran into the Horseshoe parking garage. The suspect was hiding under a vehicle. A Gilpin County Deputy tased the suspect. The suspect was removed from under the vehicle but continued fighting with investigators. The investigators gained control of the suspect and arrested the suspect. The suspect was transported due to being tased and had cuts and scrapes. Determined to be within policy.

#2022-023 – Use of Force – DOG

July 29, 2022. DOG investigators were dispatched to the Century Casino for a patron dispute. The suspect pushed a DOG investigator, and the investigators struggled to get the suspect into custody. The suspect was taken into custody without further incident. No injuries were reported. Determined to be within policy.

#2022-024 – Use of Force – DOG

October 09, 2022. A DOG investigator responded to a call for assistance from the surveillance team at the Wildwood Casino (Cripple Creek). The DOG investigator responded and spoke with the patron regarding his being asked to leave. The patron was escorted out of the casino by the back collar of his shirt. The patron threatened the DOG investigator once outside the casino. The DOG investigator attempted to take the patron into custody when force was used. The DOG investigator struggled with the patron on the ground but was able to gain control of the patron and take him into custody. No injuries were reported. Determined to be within policy.

2022 Show of Force Details

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

The following synopses are based on the reports and evidence provided in the case file. It is intended as a basic accounting of the situation and is not intended to be an analysis of the evidence or a perspective reporting or examination of the incident.

#2022-006 – Show of Force incident – DOG

On April 04, 2022. Cripple Creek Police Department (CCPD) requested assistance with a domestic violence incident. The victim indicated her boyfriend had strangled her at their residence, and he may be armed with a hammer and knife and is known to be violent towards law enforcement.

A CCPD officer and DOG investigator located the suspect walking down the street. The DOG investigator un-holstered his weapon based on the information regarding the potential weapons being carried and previous threats against law enforcement. The suspect was taken into custody without further incident. Determined to be within policy.

#2022-015 – Show of Force incident – DOG

Omitted

#2022-19 – Show of Force incident – DOG

August 12, 2022. A DOG investigator responded to a call for assistance from CCPD regarding a stolen vehicle. The stolen vehicle was located by CCPD, and a pursuit was initiated by CCPD. The DOG investigator engaged in the pursuit and was the second vehicle.

The pursuit lasted approximately 2 minutes and ended with CCPD and the DOG investigator taking three suspects into custody at gunpoint. No additional force was used to apprehend the suspects. Determined to be within policy.

#2022-026 – Show of Force incident – DOG

October 15, 2022. DOG investigators were dispatched to a report of a physical assault in progress in a parked RV. A Gilpin County Sheriff's Deputy was also on the scene. Upon arrival at the alleged physical altercation, one suspect closed the door to the RV. After knocking on the door, the first party stepped out of the RV, and the Gilpin County Deputy detained the suspect. The second party in the RV stepped out, and the DOG investigator drew their weapon as cover. Both parties were detained and compliant. The DOG investigator holstered their weapon after clearing the interior of the RV. No injuries were reported. Determined to be within policy.

#2022-027 – Show of Force incident – DOG

November 4, 2022. Black Hawk Police Department was dispatched to the Lady Luck Parking garage in response to a suspect actively firing a gun into the garage wall. A DOG investigator responded to the area to assist in looking for the suspect.

The suspect was located in the uncovered parking lot of the Lady Luck Casino in a vehicle and was approached by BHPD and Colorado State Patrol. The DOG investigator also approached with his weapon drawn. The suspect was compliant with all commands given. All involved peace officers holstered their weapons and continued the investigation. No injuries were reported. Determined to be within policy.

Training unit and use of force review board considerations

The senior director's office of the Specialized Business Group (SBG) has created a training position. The position was staffed in August 2022. The new use of force trainer is gathering data and plans for how to best move training forward across all the Department of Revenue. As a side note, the Department of Motor Vehicles (DMV) and the Tax division within DOR were statutorily authorized to hire and retain POST-certified peace officers. Adding these positions means that all external divisions within DOR now have POST-certified positions.

Additionally, all DOR POST-certified peace officers must comply with Colorado POST rule 28, which requires a minimum of 24 hours of training each year for all POST-certified peace officers. The training must be tracked and entered into the POST training portal. These duties have added a layer of complexity to the new use of force training position and have made it clear that DOR needs to create one training unit with multiple training positions to help ensure consistent training occurs across all DOR divisions. A training unit would design and implement all firearms and arrest control training. Consistent training would allow for POST-certified personnel to train more frequently, and any use of force that occurs within the policy would be more defensible in court.

The use of force review board is in place as of January 1, 2022. The board has reviewed all use of force incidents for 2022. Additionally, the board has been requested to review all show of force incidents twice a year for input on policy and training recommendations. The use of force review board commonly recommended report writing classes for all DOR POST-certified members. The report writing recommendation will be implemented in 2023 for all DOR POST-certified peace officers.

Comparisons from 2019, 2020, 2021, and 2022

	2019	2020	2021	2022
Number of investigations per year	12	0	2	5
Number of sustained allegations per year	3	0	8	9
Number of employees who resigned in lieu of termination	Unknown	0	1	0
Number of use of force incidents	2	1	5	8
Number of show of force incidents	Not tracked	2	5	5
Excessive use of force incidents	0	0	0	0