

<b><i>Crook County Sheriff's Office Operations Manual</i></b>	
Subject: <b><i>Use Of Force</i></b>	Approved: <b><i>Rodd Clark Sheriff</i></b>
Effective Date: <b><i>05-01-03</i></b>	Number: <b><i>6.01</i></b>
Accreditation Reference:	

## **I. PURPOSE**

The purpose of this policy is to provide deputy sheriffs with guidelines on the use of deadly and non-deadly force.

## **II. POLICY**

The Crook County Sheriff's Office recognizes and respects the value and special integrity of each human life. In vesting deputy sheriffs with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Because a deputy sheriff's duties often present situations in which the use of force, including deadly force, may be necessary, the law and Office policy authorize the use of such force in certain circumstances and require that the deputy sheriff be armed while on regular duty. It is the policy of this Office that use of force by its members be:

- Justified under applicable state law;
- Consistent with the more specific policies which follow;
- Professionally accomplished according to approved training and with approved equipment, unless a weapon of necessity is employed based on unusual circumstances;
- In all cases used to accomplish a legitimate tactical objective;
- Limited to that degree and duration which the deputy sheriff reasonably believes necessary to accomplish that objective; and
- Applied by the deputy sheriff and reviewed by the Office based upon those facts which are reasonably believed by the deputy sheriff at the time, applying legal requirements, Office policy, and approved training to those facts. Facts later discovered, but unknown to the deputy sheriff at the time, can neither justify nor condemn a deputy sheriff's decision to use force.

Therefore, it is the policy of this Office that deputy sheriffs shall use only that force which is reasonably necessary to effectively bring an incident under control, while protecting the lives of the deputy sheriff and others. Only after receiving and demonstrating they're understanding of this directive will certified personnel be authorized to employ any use of force, or carry any firearm/weapon.

### **III. DEFINITIONS**

*Deadly force:* Any use of force that, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

*Non-deadly force:* Any use of force other than that which is considered deadly force.

*Force Continuum:* A graphic description of the escalation/de-escalation of force used by police personnel in response to actions taken by a suspect or offender. The continuum illustrates the legal duty of a deputy sheriff to use only reasonable force in response to the threat perceived by the deputy sheriff.

### **IV. FORCE CONTINUUM**

#### **A. The Force Continuum Components**

The Force Continuum is divided into six specific component parts:

- Threat Assessment;
- Considerations of Force Escalation;
- Levels of Resistance;
- Levels of Force;
- Justification; and
- Control Techniques.

#### **B. Threat Assessment**

Every situation contains impact factors, which define the threat assessment. The deputy sheriff must continuously Assess, Plan, and Act. The term "threat" is used to describe any person or animal capable of causing physical injury, serious physical injury or death. The threat must exhibit intent, means, and opportunity to justify the use of force.

### **C. Considerations Of Force Escalation**

The deputy sheriff must select the most reasonable option relative to the situation, taking into account:

1. The totality of the circumstances.
2. If the Threat had the opportunity to comply with the deputy sheriff's commands, or if commands were even possible and appropriate.
3. If the current course of action is achieving control or compliance.
4. If the option selected warrants the risk of injury to the deputy sheriff, others or the Threat.

### **D. Levels Of Resistance**

1. Static (passive)

The Threat refused to comply with commands such as balking, becoming dead weight, or grasping a solid object.

2. Active

The Threat physically resists the deputy sheriff's verbal commands and/or attempts to gain physical control by means such as pulling away, attempting to run, or powering through a control hold.

3. Ominous (assaultive)

The Threat demonstrates the willingness to engage in combat through verbal challenge, threats and/or aggressive behavior.

4. Lethal

The Threat possesses both the intent and the means to inflict serious physical injury or death. The means can be with a weapon or empty-handed.

*Example: The Threat uses a deadly weapon (handgun, knife, shank) or a dangerous weapon (lead pipe, broken bottle, tire iron, hammer) to inflict or attempt serious physical injury. Or the Threat inflicts serious injury through superior size, strength or combative skill.*

## **E. Levels Of Force**

A deputy sheriff employing force against any person(s) or animal(s) may continue that application until the resistance or threat that caused the deputy sheriff to take the action has been stopped or controlled. The levels of force and the circumstances under which they may be used, beginning with the least and escalating up the scale to deadly physical force are:

1. Presence

The deputy sheriff has an expectation that inappropriate behavior will stop as the deputy sheriff properly identifies his/her law enforcement authority.

2. Verbal commands (tactical communications)

The questioning of a subject, the attempt to persuade a subject, or giving a direct order to a subject.

3. Physical contact

Directing a subject by touch, use of physical restraints such as handcuffs or controlling a subject with an escort hold.

4. Physical control holds

Use of chemical or organic weapons, pressure points, joint manipulation techniques, or physical control holds.

5. Serious physical control

Use of electronic stun devices, focused blows, impact weapons, and police canines.

6. Deadly force

Any force capable of causing serious physical injury or death, which includes the carotid restraint.

## **F. Justification**

1. Levels of force that may be applied vary and in most situations may be affected by the deputy sheriff's training, experience, and the information and circumstances known to the deputy sheriff at the time. When dealing with suspects and offenders, deputy sheriffs shall attempt to apply the Force Continuum, starting at the lowest appropriate level.
2. The mere presence of uniformed law enforcement personnel may be enough to control a suspect/offender's actions. Should aggression or resistance escalate, deputy sheriffs should respond with the level of force appropriate to control the situation. If during a situation a suspect's resistance de-escalates, deputy sheriffs should decrease the level of force to an appropriate level to maintain control.

If control is lost, the deputy sheriff may escalate to the level of force necessary to regain and maintain control, or consider disengaging as a tactical option. Some situations encountered may not be controllable with on-site assets. If further escalation of the force continuum would not be warranted, and continued contact may result in unacceptable risk to the deputy sheriff(s) or others, disengagement may be exercised as the most proper option until the situation can be properly addressed.

It is important to recognize that a situation may require a deputy sheriff to start at the highest level or to pass over levels due to suspect actions. By properly applying the Continuum of Force concept, deputy sheriffs will respond lawfully by using only *the force necessary to control a situation*.

## **G. Control Techniques**

1. Verbal Command

In the majority of situations requiring law enforcement intervention the deputy sheriff's verbal command is the only force necessary. The deputy sheriff's confidence, tone of voice and attitude, the clarity of directions, and choice of words are factors, which bear on the effectiveness of a verbal command.

## 2. Physical Control

If the use of a verbal command is not effective, or is not likely to be effective in controlling an individual, a deputy sheriff may need to resort to the second level of force, which is the use of physical control or an aerosol subject restraint. When using physical control or aerosol subject restraint, the deputy sheriff may only use that force necessary to control the individual. This force may range from a gentle but firm hold of a person's arm to the use of escort/control holds. Once a person complies, the force used is reduced in proportion to the compliance and is maintained at a level necessary to maintain control.

If a deputy sheriff is unable (or if the deputy sheriff believes s/he will be unable) to control a subject by use of physical controls, the deputy sheriff is justified in using a higher level of force, or prior to making any physical contact, may opt to use an aerosol restraint where there is a likelihood of injury to the deputy sheriff or any other person.

## 3. Irritants

The use of irritants to subdue a person who is resisting arrest or is otherwise combative is authorized when resistance or threats of violence represents potential escalation of necessary force and deputy sheriffs fear potential injuries to the deputy sheriff(s), the arrestee, or others present. The deputy sheriff should consider that the deputy sheriff utilizing chemical or organic irritants may be affected to a greater degree than the person who is resisting.

## 4. Impact Weapons

The baton is a defensive weapon designed for blocking, jabbing, and striking. The use of the baton is proper to overcome force of resistance and to control.

## 5. Deadly Physical Force

No action on the part of a deputy sheriff can have more far-reaching consequences for the deputy sheriff, Office and community than the use of deadly physical force. Deadly physical force, therefore, can only be justified in the protection of the deputy sheriff or another from serious physical injury or death or to prevent the escape of a fleeing felon whom the deputy sheriff has probable cause to believe will pose a significant and immediate threat to human life should escape occur.

## **V. USE OF REASONABLE PHYSICAL FORCE**

Deputy sheriffs are permitted to use only that force, which s/he reasonably believes is necessary to protect others or themselves from bodily harm or to effect any other lawful law enforcement action. The deputy sheriff's authority to use physical force is provided for under ORS 161.235 and this policy is intended to conform to the provisions of this statute.

### **A. Non-Deadly Force**

Every use of force carries the risk that some injury or even death may result, even though the type of force used is not categorized as "deadly" force. The goal in every use of non-deadly force is to gain control over the action of the person in order to take and maintain custody, overcome resistance to arrest, prevent the immediate commission of dangerous or criminal acts, prevent injury to the deputy sheriff or others, or a combination of those objectives. Once the goal is achieved, further use of physical force must be discontinued. Until that goal is achieved, the level and extent of force used must be limited to that which is reasonably believed necessary by the deputy sheriff to achieve the goal.

### **B. Deadly Force**

When circumstances justify the use of deadly force, the unavoidable risk is that someone will be killed or seriously injured. Although a deputy sheriff has no specific intent or desire to kill the person, death may be the result. Circumstances justifying the use of deadly force often happen quickly in situations of great physical and mental stress. It is rarely possible for the deputy sheriff to direct the use of deadly force to a nonfatal area of the threat. The goal in using deadly force is neither to kill nor to wound without killing. It is simply and exclusively to incapacitate the Threat to produce voluntary surrender or render that person or animal incapable of continuing the dangerous conduct which justified the use of deadly force in the first place.

Where deadly force is justified, a deputy sheriff may continue its use until satisfied the goal has been achieved. The deputy sheriff must then discontinue its use. Deputy sheriff safety and the safety of persons other than the Threat must be a continuing consideration to the deputy sheriff using deadly force.

## **VI. GUIDELINES GOVERNING THE USE OF FORCE**

While the use of force may be necessary in situations, which cannot be otherwise controlled, force may not be used unless other reasonable alternatives have been exhausted or would be ineffective under the particular circumstances.

## A. Reasonableness

The unnecessary or excessive use of force against any person or animal is prohibited. What may be reasonable force under one set of circumstances may be unreasonable force under a different, though similar, set of circumstances.

## B. Medical Treatment

Appropriate medical treatment will be made available for any person injured as a result of an deputy sheriff's use of force, and will be provided by deputy sheriffs, ambulance or emergency medical staff, and/or hospital personnel when:

- Persons subjected to irritants such as oleo capsicum resin, shall have the affected areas flushed with water as soon as safe and practical, utilizing the eye wash and flush equipment furnished in the patrol cars, Sheriff's office, or correctional facility.
- All physical injuries shall be promptly treated as soon as safe and practical by trained medical personnel. Any injuries other than minor bruises, cuts or abrasions shall be examined and treated as required at the hospital emergency room.
- Any person in custody reasonably alleging to have been injured by a deputy sheriff shall be transported, preferably by ambulance, to the hospital for examination and/or treatment.
- A person losing consciousness as a result of a use of force will be examined by trained medical personnel.

## VII. GUIDELINES GOVERNING THE USE OF DEADLY FORCE

These guidelines re-state legal principles of justification for the use of force, which are represented by the Force Continuum. Deputy sheriffs are directed by these general guidelines:

### A. Deadly Force Warning

Wherever practical under the circumstances, a deputy sheriff shall give some warning before using deadly force. **However, warning shots from firearms are strictly prohibited.**

**B. Use Of Deadly Force**

Deadly force will be used only for the protection of life or the prevention of serious bodily injury or to prevent the escape of a fleeing felon whom the deputy sheriff has probable cause to believe will pose a significant and immediate threat to human life should escape occur.

**C. Exhaust Reasonable Means**

Reasonable and practical attempts for protection or apprehension will be exhausted before using deadly force. Reasonableness and practicality are to be judged based upon the circumstances, which actually exist and are perceived by the deputy sheriff at the time and at the place that deadly force is used.

**D. Safety Of Bystanders**

The use of any weapon must be done with proper regard for the safety of bystanders or other people in the immediate area.

**E. Deputy Sheriff Discretion**

Even when a deputy sheriff may be permitted to use deadly force, the deputy sheriff may refrain from doing so if s/he believes the use of such force is inadvisable under the particular circumstances.

**F. Decision To Display Firearms**

A deputy sheriff's decision to draw or exhibit a firearm shall be based on the tactical situation and the deputy sheriff's reasonable belief there is a substantial risk the situation may escalate to the point where deadly force may be justified. When a deputy sheriff determines the use of deadly force is not necessary, the deputy sheriff should, as soon as practical, secure or holster the firearm. These judgments are matters committed to the discretion of the deputy sheriff in each instance and will be documented in the deputy sheriff's incident report. The deputy sheriff must decide what actions are necessary in order to maintain control.

**G. Justification On The Use Of Deadly Force**

1. A deputy sheriff may not use deadly force simply to arrest or prevent the escape of persons committing a crime. The only exception is if any such felons present an immediate threat to the life of a deputy sheriff or another person, should their immediate apprehension not be made.

2. A deputy sheriff is authorized to employ deadly force whenever the deputy sheriff reasonably believes there is no reasonable alternative under the following circumstances:
  - a. The use of deadly physical force is necessary to protect the deputy sheriff or any other person from the use or threatened imminent use of deadly physical force;
  - b. The use of deadly physical force is necessary to protect the deputy sheriff or any other person from death or serious physical injury;
  - c. To prevent the escape of a fleeing felon whom the deputy sheriff has probable cause to believe will pose a significant and immediate threat to human life should escape occur.

## **VIII. REPORTING THE USE OF FORCE**

Whenever a deputy sheriff must employ an amount of force capable of causing injury, a case number will be assigned to the incident. If that force is employed in the course of effecting an arrest, overcoming resistance, or controlling a dangerous situation (assault), appropriate criminal allegations should be charged against the suspect as soon as practicable. This section, VIII, also applies anytime a member discharges a firearm, other than in training or for lawful recreational purposes.

### **A. Involved Deputy Sheriffs**

The deputy sheriff(s) involved in the use of non-deadly force and any other deputy sheriff notified by a supervisor shall report the use of non-deadly force in the narrative section of a written report when:

1. Any injury is apparent or alleged to an deputy sheriff or citizen;
2. Medical treatment is required or requested;
3. When a non-lethal weapon is used on a person or animal.
4. The force used relates to a criminal charge, irrespective of whether or not the incident results in an arrest.

### **B. Use of Force Report**

1. The incident narrative shall describe in detail:
  - a. The type and level of force used;

- b. The articulated facts and beliefs observed and held by the deputy sheriff that led the deputy sheriff to decide the level of force used was justified;
  - c. Any and all witnesses;
  - d. The weapon(s) used;
  - e. Injuries and medical care received;
  - f. Details of the altercation; and
  - g. If possible, a copy of medical records shall be attached.
2. The written report shall be submitted by the end of the deputy sheriff's shift.
  3. The deputy sheriff's immediate supervisor shall complete a "Supervisor's Review" and submit it along with a copy of the written report flagged "Use of Force Review" to the Undersheriff for administrative review through the chain of command.
  4. Deputy Sheriffs involved in the use of deadly force will not be required to write an incident narrative, even though a case number will be assigned to the incident. Instead, other deputy sheriffs will be assigned by the Sheriff or his/her designee to investigate the incident. These investigating deputy sheriffs may be from another agency, if the Sheriff decides to ask another agency to conduct the investigation.

### **C. Incident Review**

1. Determinations will be made at each level of the chain of command whether or not all Office guidelines were followed. Each level in the chain of command will recommend actions in regard to those deputy sheriffs involved in the use of force incident.
2. The Sheriff, based on the Use of Force Review, may convene an Administrative Hearings Board to examine the use of force incident. Based on the result of the hearing the Sheriff may take appropriate action. The Use of Force Review process will be completed as expeditiously as possible.
3. The Office review shall be based upon those facts, which are reasonably believed by the deputy sheriff at the time, applying legal requirements, Office policy and procedures, and approved training

to those facts. Facts later discovered, but unknown to the deputy sheriff at the time, can neither justify nor condemn a deputy sheriff's decision regarding use of force.

4. The Undersheriff will complete an annual report and review on all use of force incidents which resulted in a "Supervisor's Review" and an incident report being forwarded through the chain of command. The purpose of the review will be to examine use of force incidents, which may be useful in identifying Office policy and/or training needs.

### **WARNING**

This directive is for Office use only and does not apply in any criminal or civil proceeding. The Office policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for Official administrative sanctions.

## **TRI-COUNTY MAJOR INCIDENT TEAM MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is between the Deschutes, Crook and Jefferson County Sheriffs and District Attorneys; the Bend, Redmond, Prineville, Madras, Black Butte, Sunriver, Culver, Metolius, and Warm Springs Police Departments and the Oregon State Police.

### 1. Introduction

The Tri-County Major Incident Team, (Major Incident Team) is hereby created and operated as a function of the intergovernmental entity referred to as Central Oregon Law Enforcement Services (COLES).

### 2. Purpose

- 2.1 It is self-evident that the timely assemblage of skilled investigative personnel and necessary material resources, together with a clear delineation of lines of authority and task assignment, will positively effect the outcome of any major incident investigation. It is with this in mind that the Deschutes, Jefferson and Crook County District Attorney's Offices, the Oregon State Police, the Deschutes Jefferson and Crook County Sheriff's Offices, and the Bend, Redmond, Prineville, Warm Springs, Black Butte, Sunriver, Culver, Metolius and Madras Police Departments, enter in the agreement of mutual assistance for major incident investigations.

### 3. Duration

- 3.1 Memorandum of Understanding will enter into full force and effect as to each Law Enforcement Agency (LEA) upon the signature of that LEA's authorized representative and, unless earlier terminated in accordance with section 11 below, will continue in effect until terminated. This Memorandum of Understanding may be modified by mutual consent of the parties hereto at any time prior to its termination.

### 4. Definitions

- 4.1 Major Incident Team Command Unit (MIU): The Sheriffs and Chiefs of the COLES Board and the OSP Area Commander who have signed this Memorandum of Understanding. The MIU is responsible for the management and supervision of the Major Incident Team.
- 4.2 LEA: Law enforcement agency.

- 4.3 LEA of Primary Responsibility: Agency in whose jurisdiction the crime occurred, or where the officer involved incident took place.
- 4.4 Resource Coordinator: Individual selected by the MIU whom will be responsible for coordinating deployment, training the Major Incident Team and assisting the Incident Commander.
- 4.5 Assistant Resource Coordinator: Individual selected by the MIU whom will assist the Resource Coordinator in deployment, training the Major Incident Team and assisting the Incident Commander.
- 4.6 District Attorney: Includes the Asst. US Attorney.
- 4.7 Incident Commander: Manages, coordinates and directs the over all operation during a Major Incident Team response.
- 4.8 Scene Supervisor: Supervises the scene of a major incident.
- 4.9 Investigative Supervisor: Assists the Incident Commander regarding investigative matters during a Major Incident Team response.
- 4.10 Lead Investigator: Assists the Investigative Supervisor regarding investigative matters during a Major Incident Team response.

## 5. Assigned Personnel

- 5.1 Each LEA will assign at least one member to the team.
- 5.2 In cases where less than a maximum commitment is required, the LEA of primary responsibility may utilize a team consisting of fewer investigators. This small team shall consist only of those investigators deemed necessary for the investigation.

## 6. Activation of Major Incident Team

- 6.1 Upon notification of a homicide, officer involved incident or other criminal investigation deemed appropriate for the Major Incident Team, the LEA of primary responsibility shall:
  - 6.1.1 Assure proper protection of the crime scene until the arrival of the Major Incident Team.
  - 6.1.2 Provide all available assistance as requested by the Major Incident Team.

- 6.1.3 Provide the District Attorney and the Major Incident Team with copies of all reports involving their participation in the investigation.
  - 6.1.4 Assume command of the continuing investigation designating an Incident Commander.
  - 6.1.5 Notify the District Attorney and, in the case of a suspected homicide, the Medical Examiner. The District Attorney will assign an attorney to work with the LEA and the Major Incident Team.
  - 6.1.6 Contact the Major Incident Team Resource Coordinator and inform him/her of the nature of the incident and the specific resources and/or investigative assistance required, and the location to which they are to report.
- 6.2 The Resource Coordinator shall notify the respective investigative supervisors or commanders of each agency from which resources are requested and inform them of the specifics of the call out and confirm the availability for investigators to respond. Agency supervisors will assign investigators in accordance with the provisions of this agreement.
- 6.3 Members of the Major Incident Team who are not with the LEA of primary responsibility shall be responsible to the Major Incident Team for seventy-two hours from the time the team is formed and thereafter, as approved by their department heads.

7. LEA of Primary Responsibility:

- 7.1 Each LEA shall be responsible for the expenses incurred by its own members.
- 7.2 Expenses incurred in the ordinary and necessary course of investigation shall be borne by the LEA of primary responsibility (excluding overtime for other LEA members).
- 7.3 In all investigations regarding crimes committed inside the city limits, the city police department shall be the LEA of primary responsibility.
- 7.4 In all investigations regarding crimes committed outside the city limits, the LEA, which receives the initial call (i.e., Oregon State Police or County Sheriff's Office), shall be the LEA of primary responsibility.
- 7.5 An agency with jurisdictional authority where an officer involved incident takes place shall be the LEA of primary responsibility in all investigations

regarding Major Incident Team responses to officer involved incidents. **The LEA of primary responsibility shall ensure that at least one officer not from a parent agency of involved officer(s) is assigned to the investigation.**

8. Operational Guidelines

- 8.1 The LEA of primary responsibility shall designate one member of the Major Incident Team to be an Incident Commander. All of the investigative activities of the Major Incident Team shall be directed and coordinated by that individual with the assistance of the Resource Coordinator.
  - 8.1.1 The Incident Commander shall be responsible each day for seeing that the team is operational, for a debriefing of the previous day's activities and for a briefing of the coming day's activities and team member's assignments.
  - 8.1.2 The Incident Commander's primary responsibility is direction and coordination of the investigation. It is imperative that the Incident Commander remains available to direct Major Incident Team members, most commonly this will be accomplished when the Incident Commander staffs the Command Post established for the incident.
- 8.2 The Incident Commander may designate a Scene Supervisor for any scene(s) associated with the incident. The primary responsibility of the scene supervisor is to ensure the proper scene security and the proper processing of an incident scene(s). It is imperative that the Scene Supervisor remain on the scene of the incident until all processing can be completed or to find a replacement in event of any absences.
- 8.3 The Incident Commander may designate an Investigative Supervisor to assist him/her in investigative matters during a Major Incident Team response. The Investigative Supervisor should have more flexibility to respond to scenes, supervise interviews and actively participate in facets of an investigation than the Incident Commander.
- 8.4 The Incident Commander/Investigative Supervisor may designate a Lead Investigator during a Major Incident Team response. The primary responsibility of the Lead Investigator is to be a focal point regarding investigative information gained during an investigation and be the primary contact for the District Attorney throughout the duration of the investigation.

- 8.5 All reports will be submitted to the Investigative Supervisor who will ensure proper processing.
- 8.6 The LEA of primary responsibility shall provide for storage and control of all evidence in compliance with their established property control procedures.
- 8.7 All press releases prior to the arraignment of any arrested suspects, shall be the responsibility of the LEA of primary responsibility after conferring with the District Attorney or his designee. Once an arrestee has been arraigned, press releases will be the responsibility of the District Attorney, after conferring with the LEA of primary responsibility.
- 8.8 At the conclusion of a Major Incident Team investigation, the Incident Commander shall ensure that adequate time is allotted for a full critique of the team's operational effectiveness. The critiques shall be held in private and shall be attended only by investigators or other personnel who were actively involved in the investigation.
  - 8.8.1 If any item of significance is found as a result of the critique, the Incident Commander shall submit an after-action report to his LEA head within thirty days of the critique. Such reports shall be distributed to the MIU.
- 8.9 After adjudication regarding an incident investigated by the Major Incident Team, the Incident Commander and the Resource Coordinator should debrief members of the entire team regarding the team's operational effectiveness. The goal of the debriefing is to use the incident response as a training tool for team members.
- 8.10 Personnel investigations and discipline shall be handled as set out in the COLES bylaws, Section XVI, Investigations. In addition, an employee may be removed from the Team for any reason at the discretion of the MIU or the involved employee's LEA head.

9. Conflicts

- 9.1 In any situation that is not addressed in the Memorandum of Understanding, assigned personnel will adhere to their LEA procedural manual, if it is addressed therein.

10. Liberal Construction

- 10.1 The provisions of this Memorandum of Understanding shall be liberally construed to effectively carry out its purposes, which are hereby found and

declared to be in furtherance of the public welfare, safety and convenience of the undersigned political entities.

11. Termination of Agreement

11.1 Any party may withdraw from this Memorandum of Understanding at any time by giving thirty days prior written notice to the other parties of its intent to withdraw from the Memorandum of Understanding.

12. Entire Agreement

12.1 This Memorandum of Understanding embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. The Memorandum of Understanding supersedes all prior communications, representations or agreements, either verbal or written, between the parties.

12.2 This protocol represents an agreement among participating law enforcement within Deschutes, Jefferson and Crook Counties concerning the manner in which officer involved use of deadly physical force incidents are investigated. It is anticipated that each incident will involve unique circumstances and flexibility is allowed for minor modifications during the course of the investigation. This protocol is neither a statute, ordinance, nor regulation and is not intended to increase the civil or criminal liability of member agencies or their employees and it shall not be construed as creating any mandatory obligations to, or on behalf of, third parties.

PRINEVILLE CITY POLICE DEPARTMENT  
POLICY AND PROCEDURES -GENERAL POLICIES (INVESTIGATIONS)

SUBJECT: USE OF FORCE

POLICY NO: \_\_\_\_\_ 500.001 \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_ May 1, 2003 \_\_\_\_\_

APPROVED BY: 

Eric C. Bush, Chief of Police

OAA REFERENCE: 1.2.2, 1.3.1, 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7, 1.3.9

REVISED: 10-25-2002

## I. PURPOSE

The purpose of this policy is to provide police officers with guidelines on the use of deadly and non-deadly force.

## II. POLICY

The Prineville Police Department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of the Prineville Police Department that police officers shall use only that force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and others.

## III. DEFINITIONS

1. *Deadly force*: Any use of force that is likely to cause death or serious bodily harm.
2. *Non-deadly force*: Any use of force other than that which is considered deadly force.

## IV. PROCEDURES

- A. Parameters for use of deadly force:
  1. Police officers are authorized to use deadly force to:
    - a. Protect the police officer or others from what is reasonably believed to be a threat of death or serious bodily harm or,
    - b. Prevent the escape of a fleeing felon whom the officer has probable cause to believe will pose a significant and immediate threat to human life should escape occur.
  2. Before using a firearm, police officers shall identify themselves

and state their intent to shoot, where feasible.

3. A police officer may also discharge a weapon under the following circumstances:
  - a. During range practice or competitive sporting events.
  - b. To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
4. Police officers shall adhere to the following restrictions when their weapon is exhibited:
  - a. Except for maintenance or during training, police officers shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with this policy.
  - b. Warning shots will not be fired.
  - c. Discharge of a firearm from a moving vehicle is prohibited. Discharge of a firearm at a moving vehicle is permitted as a last resort under circumstances warranting the use of deadly force

B. Parameters for use of non-deadly force:

1. Where deadly force is not authorized, officers shall use only that level of force on the force continuum that is reasonably necessary to de-escalate the incident and bring it under control.
2. Police officers are authorized to use department approved non-deadly force techniques and issued equipment for resolution of incidents as follows:
  - a. To protect themselves or another from physical harm;
  - b. To restrain or subdue a resistant individual; or
  - c. To bring an unlawful situation safely and effectively under control.

C. Training and qualifications:

1. Deadly weapons:
  - a. While on- and off-duty, police officers shall carry only weapons and ammunition authorized by and registered with the Department.
  - b. Authorized weapons are those with which the police officer has qualified and received departmental training on proper and safe usage, and that are registered and comply with departmental specifications.
  - c. This law enforcement agency shall schedule regular training and qualification sessions for service weapons, and back-up and specialized weapons. Every Police

officer must qualify two times a year.

d. Firearms qualification will be graded on a pass/fail basis.

e. Police officers who fail to receive a passing score with their duty weapon(s) in accordance with department testing procedures shall be relieved of their police powers and immediately reassigned to non-enforcement duties for up to 30 days. Remedial training will be given to help with qualification. If the officer is unable to qualify, termination may result.

f. A police officer shall not be permitted to carry any weapon with which he has not been able to qualify during the most recent qualification period.

g. A police officer who has taken extended leave or suffered an illness or injury that could affect his use of firearms ability will be required to requalify before returning to enforcement duties.

2. Non-deadly force weapons and methods:

a. A police officer is not permitted to use a non-deadly weapon unless qualified in its proficient use as determined by training procedures.

b. The following non-deadly weapons are authorized:

- (1) Police baton
- (2) Oleo Resin Capsicum
- (3) Extended range impact weapon (12ga bean bag)

D. Reporting uses of force:

1. A written report prepared according to departmental procedures will be required in the following situations:

- a. When a firearm is discharged outside of the firing range.
- b. When a use of force results in death or injury.
- c. When a non-lethal weapon is used on a person.

2. A supervisor will be immediately summoned to the scene and will comply with investigative procedures as required by the department in the following situations:

- a. When a firearm is discharged outside of the firing range.
- b. When a use of force results in death or serious injury.
- c. When a subject complains that an injury has been inflicted.
- d. When misconduct is alleged or suspected.

E. Departmental response:

1. Deadly force incident

a. Where a police officer's use of force causes death, the officer shall be placed on administrative leave after completing all internal investigative requirements, and until it is determined by a mental health professional that the police officer is ready to return to duty.

b. The department shall conduct both an administrative and criminal investigation of the incident.

2. Administrative review of critical incidents:

a. All reported uses of force will be reviewed by the appropriate departmental authority to determine whether:

- (1) Departmental rules, policy or procedures were violated,
- (2) The relevant policy was clearly understandable and effective to cover the situation;
- (3) Department training is currently adequate.

b. All findings of policy violations or training inadequacies shall be reported to the appropriate unit for resolution and/or discipline.

c. All use-of-force incident reports shall be retained as required by state law.

d. There will be a regular review of use-of-force incidents by the appropriate departmental authority to ascertain training and policy needs.