

Polk County Sheriff's Office Policy

<i>Subject</i> Use of Force	<i>Effective Date</i> 10-02-2002	<i>Number</i> 5.01
<i>Accreditation Reference (Parentheses / underline = OAA Recognition Level)</i> <u>(1.3.1), (1.3.6), (1.3.7), 1.3.13,</u>	<i>Review / Revised Date</i> 05/23/08	<i>No. Pages</i> 3
	<i>Bob Wolfe</i> Sheriff	<i>Bob Wolfe</i>

I. PURPOSE

This policy recognizes that the use of force by law enforcement officers requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide Deputies of this Office with guidelines on the reasonable use of force.

II. POLICY

The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. Deputies are involved on a daily basis in numerous and varied human encounters and, when warranted, may use force in carrying out their duties.

Deputies must have an understanding of, and appreciation for, the limitations on their authority, particularly with respect to overcoming resistance from those with whom they come in official contact.

This Office recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting deputies with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

Therefore, it is the policy of this Office that Deputies shall use only the amount of force which reasonably appears necessary, given the facts and circumstances perceived by the Deputy at the time of the event, to effectively bring an incident under control (affect arrest, overcome resistance, prevent escape, defend self / others). "Reasonableness" of the force must be judged from the perspective of a reasonable deputy on the scene at the time of the incident, and without the benefit of 20/20 hindsight.

This office will comply with the Polk County Use of Deadly Physical Force Response Plan pursuant to the requirements of SB 111.

III. RELATED LAW

The following Oregon Revised Statute provides guidance relative to the use of force by law enforcement.

A. ORS 161.235

Use of physical force in making an arrest or in preventing an escape. Except as provided in ORS 161.239, a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:

- (1) To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful; or
- (2) For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape. [1971 c.743 s.27]

IV. REASONABLE FORCE

Given that no policy can realistically predict every possible situation a Deputy might encounter in the field, it is recognized that each Deputy must be entrusted with well-reasoned and training backed discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to eliminate or minimize injury to everyone involved, nothing in this policy requires a Deputy to actually sustain physical injury before applying reasonable force.

As noted, any application of force by a member of this office must be judged by a standard of "reasonableness". When determining whether or not to apply any level of force and evaluating whether a Deputy has used reasonable force, a number of factors should be taken into consideration. Those factors should include, but are not limited to:

- A. The conduct of the individual being confronted (as perceived by the Deputy at the time).
- B. Deputy / subject factors (age, size, relative strength, skill level, injury / exhaustion, number of Deputies vs. subjects).
- C. Influence of drugs / alcohol / mental factors.
- D. Proximity of weapons.
- E. Availability of other options (What other resources are reasonably available to the Deputy under the circumstances).
- F. Seriousness of the suspected offense or reason for contact with the individual.
- G. Training and experience of the Deputy.
- H. Potential for injury to citizens, deputies and suspect.
- I. Risk of escape.
- J. Other exigent circumstances.

It is recognized that deputies are expected to make split-second decisions and that the amount of time available

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to evaluate and respond to changing circumstances may impact a Deputy's decision.

While various levels of force exist, each Deputy is expected to respond with only that level of force which reasonably appears to be necessary under the circumstances at the time to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

In accord with then existing circumstances, the decision to use force rests with each Deputy. While there is no way to specify the exact amount or type of force to be applied to any situation, each Deputy is expected to use these guidelines to make such decisions in a professional, impartial, and safe manner.

IV. REPORTING THE USE OF FORCE

Whenever a deputy must employ an amount of force beyond a simple escort hold, a case number will be assigned in regard to the incident. If that force is employed in the course of effecting an arrest, overcoming resistance, preventing an escape, or controlling a dangerous situation (assault), appropriate criminal allegations should be charged immediately.

A. Involved Deputies.

The deputies involved in the use of force and any other deputy notified by a supervisor shall report the use of force documented on the office Physical Control / Use of Force Administrative Report form and in the narrative section of a written report when:

1. A deputy discharges a firearm in the line of duty for other than training purposes. The dispatching of an injured animal does not require a use of force report and may be documented on a CAD or incident report.
2. Death or injury has resulted or is alleged to have resulted to any person;
3. Medical treatment is required or requested;
4. When any weapon is used on a person (not including the conventional display or deployment of a weapon). Such displays of force, absent any physical application of such force, should be documented in the narrative of the report but does not require the office Physical Control / Use of Force Supplemental Report form to be completed.
5. The force used relates to a criminal charge, irrespective of whether or not the incident results in an arrest.

The incident narrative shall describe the force used. The narrative shall also articulate the facts observed by the deputy and the beliefs held by the deputy that lead the deputy to decide that the level of force used was reasonable and justified. The office Physical Control /

Use of Force Administrative Report form will be filled out completely and attached to the front of the written report. Weapons used, injuries, medical care received, details of the altercation and a description of the conduct that lead up to the force application, shall be reported in **detail**. Witnesses shall be listed. If possible, a copy of medical records shall be attached.

The written report should be submitted by the end of the shift. The deputy's immediate supervisor shall complete the "Supervisor's Review" portion of the office Physical Control / Use of Force Supplemental Report form and submit it along with a copy of the written report flagged "Use of Force Review" to the Patrol Commander for administrative review through the chain of command.

B. Incident Review.

1. Determinations will be made at each level of the Chain of Command whether or not all Sheriff's Office guidelines were met. Each level in the Chain of Command will recommend actions in regard to those officers 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 and may take appropriate action. The Use of Force Review process will be completed as expeditiously as possible.
3. The Sheriff's Office Review shall be based upon those facts, which were reasonably believed by the deputy at the time, applying legal requirements, office policy and procedures, and approved training to those facts. Facts later discovered, but unknown to the deputy at the time, can neither justify nor condemn a deputy's decision regarding use of force.
4. An annual review will be conducted of 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.

V. ADMINISTRATIVE LEAVE

Employees involved in a use of force situation that results in the death or serious physical injury of another person shall be placed on Administrative Leave pending the completion of any investigations and Office reviews. During this period the employee(s), and family members if necessary, will be afforded assistance as determined appropriate by the Sheriff. This is not disciplinary action.

VI. WARNING

This directive is for Sheriff's Office use only and does not supercede existing state or federal law. The office policy should not be construed as a creation of higher legal

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standard of safety or care in an evidentiary sense with respect to third party claims.

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<i>Subject</i> Force Continuum Training	<i>Effective Date</i> 11/23/01	<i>Number</i> TD-1.01
<i>Accreditation Reference (Parentheses / underline = OAA Recognition Level)</i> (1.3.1), (1.3.2), (1.3.5), (1.3.6), (1.3.7),	<i>Review / Revised Date</i> 10/28/03	<i>No. Pages</i> 6

I. PURPOSE

The purpose of this training directive is to provide deputies with guidelines on the use of deadly and non-deadly force.

II. TRAINING DIRECTIVE

This office recognizes and respects the value and special integrity of each human life. In vesting deputies with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Because a deputy's duties present situations in which the use of force, or even deadly force, may be necessary, the law and office policy authorize the use of such force in certain circumstances and require that the officer be armed while on regular duty. It is the goal of this training directive that use of force by Office members be:

1. Justified under applicable state law;
2. Consistent with Office policies (Policy 5.01).
3. Professionally accomplished according to approved training and with approved equipment;
4. In all cases employed to accomplish a legitimate tactical objective;
5. Limited to that degree and duration which the deputy reasonable believes necessary to accomplish that objective; and
6. Applied by the deputy and reviewed by the office based upon those facts which are reasonably believed by the deputy at the time, applying legal requirements, Sheriff's Office policy, and approved training to those facts. Facts later discovered, but unknown to the deputy at the time, can neither justify nor condemn an deputy's decision to use force.

III. DEFINITIONS

Deadly force: Any use of force that is likely to cause death or serious bodily harm.

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

Continuum of Force: A graphic description of the escalation and de-escalation of force used by police personnel in response to actions taken by a suspect

or offender. It serves to illustrate the legal duty of an officer to use only reasonable force in response to the threat perceived by the officer.

IV. CONTINUUM OF FORCE

The Force Continuum is divided into six specific component parts: 1) Threat Assessment, 2) Considerations of Force Escalation, 3) Levels of Resistance, 4) Levels of Force, 5) Justification, and 6) Control Techniques.

A. Threat Assessment.

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

B. Considerations of Force Escalation.

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

1. The totality of the circumstances.
2. Has the Threat had the opportunity to comply with your commands, if commands were possible and appropriate.
3. Is the current course of action achieving control or compliance?
4. Does the option selected warrant the risk of injury to yourself or the Threat?

C. 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'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.

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

D. Levels Of Force.

A deputy employing force against any person(s) may continue that application until the resistance or threat that caused the deputy to take the action has been stopped or controlled.

The various levels of force and the circumstances under which they may be used, beginning with the least and elevating up the scale to deadly physical force, are illustrated on the charts which follow, and are discussed below.

1. Presence. The deputy has an expectation that inappropriate behavior will stop as the deputy properly identifies his police 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, electronic stun devices, pressure points, joint manipulation techniques, or physical control holds.
5. Serious physical control. Focused blows, impact weapons, police canines and the carotid restraint.
6. Deadly force. Any force capable of causing serious physical injury or death.

E. Justification

Levels of force that may be applied vary and in most situations may be affected by the individual deputy's relative abilities (age, size, etc) and the information and circumstances known to the deputy at the time. When dealing with suspects and offenders, deputies should attempt to follow the Force Continuum, starting at the lowest appropriate level.

1. The mere presence of uniformed law enforcement personnel may be enough to control a suspect's actions. Should aggression or resistance escalate, deputies should respond with the level of force

appropriate to control the situation. If during a situation a suspect's resistance de-escalates, deputies should decrease the level of force to an appropriate level to maintain control.

2. If control is lost, the deputy may escalate to the level of force necessary to regain and maintain control. 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 deputies or others, disengagement may be exercised as the most proper option until the situation can be properly addressed.
3. It is important to recognize that a situation may require a deputy to start at the highest level, or to pass over levels due to suspect actions. By properly applying the Continuum of Force concept, deputies will respond lawfully by using only the force that is both reasonable and necessary to control a situation.

F. Control Techniques

1. Verbal Command: In the majority of situations requiring police intervention the officer's verbal command is the only force necessary. The deputy'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. Hand Control: If the use of a verbal command is not effective, or is not likely to be effective in controlling an individual, an officer may need to resort to the second level of force which is the use of hand control or an aerosol subject restraint. When using hands or aerosol subject restraint, the deputy 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 or a pressure point application or device. 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 is unable (or if the deputy believes he or she will be unable) to control a subject by use of hand controls, the deputy is justified in using a higher level of force, or prior to making any physical contact, may opt to use an aerosol restraint

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prior to making actual physical contact where there is a likelihood of injury to the deputy or any other person.

3. **Chemical Irritants or electronic stun device as Subject Restraint:** The use of chemical irritants or electronic stun device 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 deputies fear potential injuries to the deputies, the arrestee, or others present. The deputy should consider that the deputy utilizing chemical 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. **Carotid Control:** The carotid control hold is utilized to overcome aggressive resistance in which a lower level of force is ineffective or inappropriate under the circumstances.
6. **Deadly Physical Force:** No action on the part of a law enforcement officer can have more far-reaching consequences for the deputy, Sheriff's Office and community than the use of deadly physical force. Deadly physical force, therefore, can only be justified in the protection of the deputy or another from serious physical injury or death or to prevent the escape of a fleeing felon whom the deputy has probable cause to believe will pose a significant and immediate threat to human life should escape occur.

V. USE OF REASONABLE PHYSICAL FORCE

Deputies are permitted to use only that force, which the deputy reasonably believes, is necessary to protect others or themselves from bodily harm or to effect any other lawful police action. The deputy's authority to use physical force is provided for under ORS 161.235 and this training directive is intended to conform to the provisions of this statute. (See policy Section 5.01 for Office policy on Use of Force).

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, prevent escape, overcome resistance, to affect an arrest, prevent the immediate commission of dangerous or criminal acts, 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 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 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. The goal in using deadly force is neither to kill nor to wound without killing. It is simply and exclusively to incapacitate, or stop the threat, to produce voluntary surrender or render that person incapable of continuing the dangerous conduct which justified the use of deadly force in the first place. Where deadly force is justified, a deputy may continue its use until satisfied that the goal has been achieved and then must discontinue its use. Officer safety and the safety of persons other than the threat must be a continuing consideration to the deputy 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 resorted to 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 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:

Deputies, ambulance or emergency medical staff, and/or hospital personnel will provide appropriate medical treatment for any person injured as a result of a deputy's use of force:

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- Persons subjected to chemical 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, and / or the exposure treatment product(s) 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, alleging / complaining to have been injured by a deputy shall be examined and / or treated by trained medical staff, or hospital personnel.
- If any loss of consciousness results from a use of force, that person 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 Use of Force Continuum. Deputies shall be directed by the following general guidelines:

A. Deadly Force Warning

Wherever practical under the circumstances, a deputy shall give some warning before using deadly force.

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 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 at the time and 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. Decision To Display Firearms:

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

F. Justification On The Use Of Deadly Force:

A deputy 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 or a citizen, should their immediate apprehension not be made.

1. A deputy is authorized to employ deadly force whenever it appears to the deputy that there is no reasonable alternative under the following circumstances:
 - a. The deputy reasonably believes that the use of deadly force is necessary to protect the deputy or any other person from the use or threatened imminent use of deadly physical force;
 - b. The deputy reasonably believes that the use of deadly physical force is necessary to protect the deputy or any other person from death or serious physical injury;
 - c. To prevent the escape of a fleeing felon whom the deputy 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 must employ an amount of force beyond a simple escort hold, a case number will be established and assigned in regard to the incident. If that force is employed in the course of effecting an arrest, overcoming resistance, or controlling a dangerous situation (assault),

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appropriate criminal allegations should be charged immediately. (See Policy 5.01 for reporting requirements by policy).

IX. WARNING

This training directive and its guidelines are for Sheriff's Office use only and do not supercede existing state and federal law. The training directive 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.

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<i>Subject</i> Force Tools Guide, Specific Instrumentality	<i>Effective Date</i> 11/23/01	<i>Number</i> TD-1.02
<i>Accreditation Reference (Parentheses / underline = OAA Recognition Level)</i> (1.3.3), (1.3.4), (1.3.5), (1.3.10), (1.3.11), (1.3.12), (16.3.6)	<i>Revised / Review Date</i> 40/05/05– 03/06/06	<i>No. Pages</i> 8
	<i>Bob Wolfe</i> <i>Sheriff</i>	

I. PURPOSE

The purpose of this training directive is to provide deputies with guidelines on the use of specific delivery methods / tools and how they relate to the use of force.

II. TRAINING DIRECTIVE

This training directive is designed as a tool for Office members, to provide guidance in the reasonable application of force, specifically as it relates to the weapons and tools Deputies commonly utilize. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training" for additional force related information.

III. DEFINITIONS

Deadly force: Any use of force that is likely to cause death or serious bodily harm.

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

Vascular neck Restraint: A vascular neck restraint is any physical hold applied to the neck of another person that is intended to inhibit blood flow through the vascular system of the neck by exerting pressure, to one or both sides of the neck through the member's use of hands, arms, or any other instrument

Chemical Irritants: Substances, either natural or man-made, the design and use of which is to temporarily incapacitate a suspect.

Electronic Restraint Device: A device designed to stun, restrain or incapacitate a suspect temporarily by way of delivering an electronic shock.

Firearm: Any weapon, the design of which is to propel a projectile or projectiles by the use of a chemical explosion, and capable of causing serious physical injury or death.

Impact Weapon: Police baton, side-handle baton, collapsible baton, or any other such instrument or device designed or used to block, jab, strike, or temporarily restrain or control a suspect by way of physical impact or extending the deputy's ability to use control holds.

Instructor/Instruction: Agency instructors and instruction will meet or exceed Department of Public Safety Standards and Training criteria prior to being accepted by the Training Officer. Such instructors and instruction are then deemed "certified". (Policy 3.12)

Less-Lethal Projectiles: Fired from a firearm or similar device, less-lethal projectiles are designed to stun or incapacitate a suspect temporarily without penetrating the body or causing serious physical injury or death.

Patrol Canine: A canine trained for and employed by law enforcement officers, the use of which includes, but may not be limited to, handler protection and the location and apprehension of suspects.

Restraints/Handcuffs: Handcuffs, flex-cuffs, hobbles, belly chains, and all such devices the design or use of which is to temporarily restrain a person for the purpose of officer safety or to prevent injury to the person or another.

Vehicular Use of Force: Deployment of a motor vehicle as a use of force to stop or control a suspect or vehicle beyond that of a traffic stop or normal vehicular operation.

IV. USE OF FORCE RELATED INJURIES

Once a person is in police custody, it is the responsibility of the deputies to render or obtain any medical aid required. With any use of physical force where an injury has occurred or is alleged to have occurred, the deputy should observe and evaluate, treat or obtain medical aid, document, and report.

A. Observe and Evaluate

If an injury is apparent to a person in custody, the deputy should observe and evaluate the injury to assure that the proper level of care is provided. If a person in custody alleges an injury and none is apparent, the deputy will summon appropriate trained medical response for an evaluation.

B. Treat or Obtain Medical Aid

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Appropriate medical treatment shall be provided to any person injured or alleged injured as a result of a use of force. This may include, but is not limited to:

1. Flushing / treating the eyes and skin of a person subjected to oleoresin capsicum or other chemical irritant, and monitoring the person for complications.
2. Washing and bandaging minor cuts or abrasions resulting from the application of physical force during an arrest.
3. Obtaining trained medical attention and ambulance transport to medical facilities for persons with more serious injuries.

C. Documentation

Deputies should take all practical measures to fully document the injuries:

1. Note carefully location, extent, and appearance of the injury for reporting purposes.
2. Photograph the injury as soon as possible if at all possible.
3. Obtain witness names and statements from medical personnel or others at the scene.
4. Obtain all medical records possible if the subject is treated by emergency medical personnel or at a hospital facility.
5. Note carefully any statements made by the suspect.

D. Reporting Use of Force Injuries

Policy and procedures for reporting the use of force are described in Office Policy 5.01 "Use of Force".

V. VASCULAR NECK RESTRAINTS

Vascular neck restraint constitutes "serious physical control" level of force. (Refer to Training Directive TD-1.01 "Force Continuum Training")

A. Sheriff's Office Policy on the Vascular neck Restraint

A vascular neck restraint will not be applied to any person except in the protection of life, for the prevention of serious bodily injury, or in the apprehension of a person who the deputy reasonably believes poses a serious danger to the deputy or the public.

B. Training

Only those deputies instructed in the use of the "vascular neck restraint" in authorized training and whose skills are current may use such a restraint.

1. Such deputies shall also be currently certified in the use of cardiopulmonary resuscitation (CPR).
2. Deputies trained in the use of the Vascular neck Restraint will receive instruction in the office's use of force policy and applicable laws prior to being authorized to use the restraint
3. Deputies will receive annual training in the use of force policy, applicable laws and proper use of the vascular neck restraint, and demonstrate proficiency in its use. Documentation of training and current proficiency shall be contained in the deputy's training file.
4. A deputy failing to demonstrate proficiency shall not be authorized to use the restraint until remedial training has been completed; and current proficiency demonstrated and documented in the deputy's training file.

C. Use of the Vascular neck Restraint

The Vascular neck Restraint may be used as a controlling maneuver when other control techniques have failed, or would be ineffective under the circumstances, and it is clear the person or deputy may be harmed in an effort to gain control.

Medical attention by qualified medical personnel shall be sought and administered following an unconscious state, which is the result of the application.

VI. CHEMICAL IRRITANTS

Chemical Irritants are considered a "physical control hold" level of force and shall be employed in a manner consistent with this agency's use-of-force policy. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training"

A. Sheriff's Office Issued Chemical Irritants

Deputies will carry only Sheriff's Office issued Chemical Irritants.

1. Personal issue: Deputies whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required, while on duty, to carry Sheriff's Office authorized oleoresin capsicum aerosol restraint spray.
2. Authorized / approved oleoresin capsicum aerosol restraint spray: Punch II Streamer M-4, 4 oz, 5% of 2,000,000 SHU (.675% capsaicin) Non-Flammable, by Aerko

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International. A foam form of the same spray is authorized for use in the corrections environment and is not for use in the patrol environment.

B. Training

Only deputies who have completed the prescribed course of instruction on the use of OC are authorized to carry the device.

1. Deputies will be instructed in the office's use of force policy and applicable laws prior to being issued a chemical irritant.
2. Deputies will receive orientation and training regarding the use of oleoresin capsicum, its effects, ingredients, means of delivery and first aid to be administered which will be included in the deputy's training file, prior to being issued OC.
3. Deputies will receive training, at least annually, on the office's use of force policy and the proper use of chemical irritants, and will demonstrate a proficient knowledge of their use. This proficiency will be documented in the deputy's training file.
4. A deputy failing to demonstrate proficiency shall not be authorized to use chemical irritants until remedial training has been completed; and current proficiency demonstrated and documented in the deputy's training file.

C. Use of Chemical Irritants

1. Oleoresin capsicum may be used when:
 - a. Verbal dialogue has failed to bring about the subject's compliance, and
 - b. The subject has signaled his intention to actively resist the deputy's efforts to make the arrest.
 - c. Oleoresin Capsicum may be used on animals as a deterrent to aggressive behavior when a deputy reasonably believes that such aggression may cause injury to the deputy or any other person who is present.
2. The effects of OC vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being sprayed. Deputies should also be prepared to employ other means to control the suspect to include, if necessary, other force options consistent with agency policy if the suspect does not respond sufficiently to the spray and cannot otherwise be subdued.

3. A deputy may use deadly force to protect himself from the use or threatened use of OC when the deputy reasonably believes that deadly force will be used against him if he becomes incapacitated.
4. Once a suspect is incapacitated or restrained, use of OC is no longer justified unless the deputy reasonably believes the suspect is a continuing threat because of the tactical situation or some other reason that can be articulated.

D. Additional considerations

Within several seconds of being sprayed by OC, a person will normally display symptoms of temporary blindness, have difficulty breathing, burning sensation in the throat, nausea, lung pain and/or impaired thought processes.

Consistent with Sheriff's Office training in the use of Oleoresin capsicum, the deputy using the chemical irritant should be aware of additional considerations including, but not limited to:

1. Collateral effects:
 - a. Whenever possible, deputies should be upwind from the suspect before using OC and should avoid entering the spray area.
 - b. A deputy should maintain a safe distance from the suspect of between two and 10 feet.
 - c. Use of OC should be avoided, if possible, under conditions where it may affect innocent bystanders.
 - d. Assistance shall be offered to any individuals accidentally exposed to OC spray who feel the effects of the agent.
2. Treatment of affected persons:
 - a. Once the suspect has been restrained, deputies shall assist him by rinsing with clean water and drying the exposed area and / or application of decontamination products.
 - b. Any vehicles or interiors of buildings should be ventilated.
 - c. Suspects that have been sprayed shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody.
 - d. Immediately after spraying a suspect, deputies shall be alert to any indications that the individual needs medical care.
 - e. Upon observing any medical problems or if the suspect requests medical

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assistance, the deputy shall immediately summon emergency medical aid.

E. Maintenance

1. All OC spray devices shall be maintained in an operational and charged state.
2. Replacements of OC spray canisters shall occur when the unit has been discharged in any significant amount.
3. OC canisters shall be inspected periodically by the deputy it is issued to, and turned in for replacement when expired, damaged, inoperable or depleted.

VII. ELECTRONIC RESTRAINT DEVICES

Electronic stun devices are considered a "physical control hold" level of force and shall be employed in a manner consistent with this agency's use-of-force policy. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training".

A. Sheriff's office issued electronic stun devices.

Deputies will only use Sheriff's office issued electronic stun devices.

Authorized / Approved: Taser International X26

B. Training

Only deputies who have completed the prescribed course of instruction on the use of the X26 taser are authorized to carry the device.

1. Deputies will be instructed in the office's use of force policy and applicable laws prior to being issued an electronic stun device.
2. Deputies will receive orientation and training regarding the use of the X26 taser, its affects, means of delivery and first aid to be administered which will be included in the deputy's training file, prior to being authorized to use an electronic stun device.
3. Deputies will receive training, at least annually, on the office's use of force policy and the proper use of electronic stun devices, and will demonstrate a proficient knowledge of their use. This proficiency will be documented in the deputy's training file.
4. A deputy failing to demonstrate proficiency shall not be authorized to use electronic stun devices until remedial training has been completed and current proficiency

demonstrated and documented in the deputy's training file.

C. Use of Electronic Stun Device

1. The X26 Taser may be used when:
 - a. Verbal dialogue has failed to bring about the subject's compliance, and
 - b. The subject has signaled his intention to resist the deputy's efforts to make the arrest.
 - c. The X26 Taser may be used on animals, as a deterrent to aggressive behavior, when a deputy reasonably believes that such aggression may cause injury to the deputy or any other person whom is present.
2. The effects of electronic stun devices vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being tased. Deputies should also be prepared to employ other means to control the suspect to include, if necessary, other force options consistent with agency policy if the suspect does not respond sufficiently to the taser and cannot otherwise be subdued.
3. A deputy may use deadly force to protect himself from the use or threatened use of electronic stun devices when the deputy reasonably believes that deadly force will be used against him if he becomes incapacitated.
4. Once a suspect is incapacitated or restrained, use of the taser is no longer justified unless the deputy reasonably believes the suspect is a continuing threat.

D. Additional considerations

Consistent with Sheriff's Office training in the use of Electronic stun devices, the deputy using the taser should be aware of additional considerations including, but not limited to:

1. Collateral effects:

The only collateral effect that needs to be considered is that the deputy/deputies should avoid contact with the probes and wires when placing the suspect into custody. If the Deputies contact the probes or wires they may experience some of the shock of the weapon but should not be incapacitated.
2. Treatment of affected persons:
 - a. Once the suspect has been restrained, deputies shall assist him by locating the

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probes and determine if medical treatment is needed to remove the probes.

- b. Suspects that have been tased shall be monitored continuously for indications of medical problems.
- c. Immediately after tasing a suspect, deputies shall be alert to any indications that the individual needs medical care.
- d. Upon observing any medical problems or if the suspect requests medical assistance, the deputy shall immediately summon emergency medical aid.
- e. After the use of the Taser, full deployment and / or drive stun on a suspect, the deputy will record the serial # of the Taser(s) used on the use of force report form and will also send an e-mail to supervisor with the serial # and date and time of the incident.

E. Maintenance

1. All electronic stun devices shall be maintained in an operational and charged state.
2. Replacements of power supplies and inspection of the weapons shall occur on a preset schedule set up by Taser International.

VIII. FIREARMS

Use of firearms constitutes a "deadly force" level of force, and shall be used only in situations where the use of deadly force is justified. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training"

A. Department Issued Firearms

Deputies will carry only Sheriff's Office issued firearms, or those specifically authorized in the Sheriff's Office firearms policy. Ammunition will likewise conform to that authorized in the Sheriff's Office firearms policy.

B. Training

(Refer to Office Policy 3.14, Firearms Training). Deputies may carry and use only those firearms that they have received training and demonstrated proficiency in the use of.

1. Deputies will be instructed in all applicable laws on the use of deadly force and Sheriff's Office use of force policy prior to being issued any firearm.
2. Unless participating in the Field Training Program; Deputies will successfully

complete the Basic Police Academy course on firearms instruction or its accepted equivalent prior to being authorized to carry a firearm.

3. Deputies will receive firearms training at least bi-annually. They will demonstrate a current knowledge of the office's use of force policy received during annual training, and an acceptable level of proficiency with each firearm they are authorized to carry.
4. Levels of proficiency and frequency of qualifications with each weapon will be set by the Sheriff's Office Rangemaster and the deputy's performance will be documented in the deputy's training file.
5. A deputy failing to demonstrate proficiency shall not be authorized to carry the firearm until remedial training has been completed; and current proficiency demonstrated and documented in the deputy's training file.

C. Use of Firearms

Use of firearms by law enforcement officers in the performance of their duties constitutes one of the most closely scrutinized aspects of the profession. Deputies are authorized to use firearms when necessary:

1. To protect the deputy or another from serious physical injury or death, where it is necessary to stop or incapacitate the threat.
2. To prevent the escape of a fleeing felon whom the deputy has probable cause to believe poses a significant and immediate threat to human life should escape occur.
3. To destroy or deter a dangerous animal or, with permission from a supervisor, to destroy a badly injured domestic or livestock animal to prevent further suffering.
4. At a firing range pursuant to all safety rules and regulations.

D. Unauthorized firearms Uses

1. Deputies are prohibited from discharging firearms from a moving vehicle.
2. Discharging a firearm is not authorized as a signal, warning, or communication method.
3. Any accidental discharge of a firearm by a deputy occurring during a law enforcement related function will be immediately reported to the on duty supervisor. An incident report will be generated, and copies forwarded to the Rangemaster and Sheriff.

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4. Deputies will not display their weapons for casual civilian observation.
5. Firearms shall not be used to maliciously threaten or intimidate persons.

E. Maintenance

Any firearm authorized by this office to be carried by a deputy will be maintained in a clean and operational condition. They are subject to unannounced inspections by a supervisor or member of the firearms team at any time.

Firearms will be inspected as part of each scheduled firearms range training sessions.

IX. IMPACT WEAPONS

Use of impact weapons to extend a control hold may range upward from a "physical control hold" level of force. Use of impact weapons to block, jab, or strike constitutes a "serious physical control" level of force. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training"

A. Sheriff's Office Issued / Approved Impact Weapons:

Deputies will carry only Sheriff's Office issued or approved impact weapons.

1. Collapsible baton: The office has approved, for standard deployment, a collapsible style baton.
2. Standard baton: The office issues (unless a collapsible style is preferred and supplied by the deputy), for standard deployment, a straight style, wooden baton.
3. Impromptu impact weapons: Nothing in this section precludes a deputy from using an impromptu impact weapon (such as the police issue flashlight) if the deputy is justified in its use to protect himself or another from serious physical injury or death.

B. Training

Only deputies who have received training and have demonstrated proficiency in the use of impact weapons may carry and use them.

1. Deputies will be instructed in the office's use of force policy and applicable laws prior to being issued an impact weapon.
2. Deputies will receive training in the proper use of impact weapons prior to the weapon being deployed with the deputy. This will be documented in the deputy's training file.

3. Deputies will receive annual training in the office's use of force policy and the proper use of impact weapons, and will demonstrate proficiency in their use. This will be documented in the deputy's training file.

4. A deputy failing to demonstrate proficiency shall not be authorized to use impact weapons until remedial training has been completed; and current proficiency demonstrated and documented in the deputy's training file.

C. Use of Impact Weapons

Only that amount of force reasonably believed necessary to protect persons from bodily harm, overcome resistance, or to effect a lawful police action may be used.

1. Impact weapons may be used as an extension of a deputy's ability to apply a control hold to overcome "static" or higher levels of resistance. This includes, but is not limited to leverage applications, wrist or other joint locks, arm bars, come along holds, and takedowns.
2. Impact weapons may be used as a blocking, jabbing, or striking weapon to overcome "active" or higher levels of resistance. This includes, but is not limited to jabs and rakes intended to stun or gain compliance, strikes to major muscle groups for the same purpose, or strikes to areas such as wrists or shins designed to disarm or incapacitate.
3. Impact weapons may be used on targets identified as potentially lethal, such as the head or groin, only in situations where the use of deadly force is justified.

D. Unauthorized use

1. Impact weapons shall not be used to maliciously threaten, intimidate or punish any person.
2. Impact weapons shall not be used for other than law enforcement purposes.
3. Deputies should exercise restraint and consideration before demonstrating or displaying their impact weapons.

E. Maintenance

Sheriff's Office issued impact weapons will be kept in a clean, operational condition at all times.

X. LESS-LETHAL PROJECTILES

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This Office does not presently issue or deploy less-lethal projectile devices. As such, the use of less-lethal projectile devices by members of this office is not authorized. Assisting, outside agencies or tactical teams may deploy less-lethal projectile devices as dictated by agreement or tactical need.

Examples of less-lethal projectile devices include, but may not be limited to, bean bag rounds, pepper-ball devices, sage weapons, rubber, foam or wooden projectile rounds for shotguns or other tactical weapons. This does not include the TASER device.

XI. RESTRAINTS/HANDCUFFS

Use of restraints such as handcuffs, leg irons, flex cuffs, or hobbles constitute a "physical contact" level of force. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training".

A. Sheriff's Office authorized Restraints

Deputies will carry only Office issued or authorized restraints.

1. Handcuffs: The Sheriff's Office issues handcuffs to deputies whose normal duties/assignments may require them to make arrests or supervise arrestees. Deputies may carry additional, personally owned sets of handcuffs so long as they are of a similar design and quality to those issued.
2. Other restraints: The Sheriff's Office authorizes or makes available for check out the following restraints. These may be used by deputies to make arrests, transport or supervise prisoners.
 - a. Leg irons, for the restraint of violent offenders or escape risks.
 - b. Hobbles, for the purpose of preventing a violent prisoner from kicking persons or damaging property.
 - c. Belly chains, for the purpose of further restraining the arms of prisoners that are unusually flexible, violent, or dangerous.
3. Flex-cuffs: Flex-cuffs may be used by officers as a temporary means to secure additional suspects. Deputies should be aware of the danger of a suspect cutting, burning, or slipping out of flex cuffs and exercise additional caution, checking the flex-cuffs frequently.

B. Training

Deputies shall train annually during defensive tactics in-service training on the proper use of restraints.

1. The training shall include instruction in the Office's use of force policy.
2. The training shall be documented in the deputy's training file.

C. Use of Restraints

Every person taken into custody shall be handcuffed with their hands behind the back, unless such handcuffing is impossible (e.g., an amputee) or impractical. In such an event, an officer shall use appropriate safeguards to secure the person. Additional restraints shall be used, as needed, if the deputy reasonably believes they are necessary because:

- a. The prisoner is violent and constitutes a continuing threat to the deputy even though handcuffed.
- b. The prisoner constitutes an escape risk unless further restrained.
- c. The prisoner damages or attempts to damage property even though restrained.
- d. The prisoner acts in a manner that is likely to injure himself or others.
- e. The prisoner is accused of crimes of a serious nature that merit additional security.
- f. The prisoner has a past record of violent behavior or escapes.

D. Unauthorized Uses of Restraints

Restraints shall not be used as punishment, or to humiliate or degrade any person.

E. Maintenance

All restraints carried by or in the care of deputies shall be maintained in a clean and operational condition.

XII. CANINE AS A USE OF FORCE

Police canines are not normally deployed as a "use of force". When they are utilized as such, they are considered to be a "serious physical control" level of force. Refer to Policy 5.01, "Use of Force", and Training Directive TD-1.01 "Force Continuum Training". Canines as a use of force are located in the Law Enforcement Canine section of this chapter. (Refer to Policy 5.50, "Law Enforcement Canines")

XIII. VEHICULAR USES OF FORCE

Vehicles are not designed as, nor are they normally deployed as a "use of force". When they are utilized as such, vehicular uses of force will be consistent with the "Vehicular Use of Force Continuum" located in Training Directive 2.01

XV. WARNING

This training directive and its guidelines are for Sheriff's Office use only and do not supercede existing state and federal law. The training directive 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.

Dallas Police Department Operations Manual	
Subject: USE OF FORCE	Approved: James M. Harper Chief Of Police
Effective Date: MAY 15 2008	Standard Operating Procedure Number: 2.06.07

I. PURPOSE

This policy recognizes that the use of force by law enforcement officers requires constant evaluation and assessment. The purpose of this policy is to provide police officers in this department with guidelines on the use of deadly force and "Less Lethal" force.

II. POLICY

The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. Officers are involved on a daily basis in many varied human encounters and when warranted, may be compelled to use force carrying out their duties.

Officers must have an understanding of—and an appreciation for—the limitations of their authority particularly with respect to overcoming resistance from those with whom they come in official contact with. A careful balancing of all human interests is required. With each situation, the officer will recognize and respect the value of all human life without prejudice to anyone. Because officers' duties present situations in which the use of force and even the use of deadly force may be necessary, the law and the department authorize the use of force in certain circumstances and require that the officer be armed while on duty. It is the policy of this department that the use of force by its members be:

- A. Justified under applicable state law;
- B. Applied only by those officers who have been specifically trained and shown proficiency in the technique or instrumentality used;
- C. Professionally accomplished according to approved training and with approved equipment unless a weapon of necessity is employed in unusual circumstances;
- D. In all cases employed to accomplish a legitimate tactical objective;
- E. Limited to that degree and duration which the officer reasonably believes necessary to accomplish that objective; and
- F. Applied by the employee and reviewed by the department based upon those facts which are reasonably believed by the officer at the time, applying legal requirements, department policy, and approved training to those facts.

Therefore, it is the policy of this Department that police officers shall only use force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and citizens. "Reasonableness" of the force must be judged from the perspective of

a reasonable officer on the scene at the time of the incident, and not information developed at a later date. Only after receiving and demonstrating an understanding of this directive will sworn personnel be authorized to employ any use of force, or carry any firearm or weapon. The Dallas Police Department will comply with the Polk County Use of Deadly Force Response Plan.

III. RELATED OREGON LAW

A. ORS. 161.235 Use of physical force in making an arrest or in preventing an escape.

Except as provided in ORS 161.239, a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:

(1) To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful; or

(2) For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape. [1971 c.743 §27]

B. ORS. 161.239 Use of deadly physical force in making an arrest or in preventing an escape.

(1) Notwithstanding the provisions of ORS 161.235, a peace officer may use deadly physical force only when the peace officer reasonably believes that:

(a) The crime committed by the person was a felony or an attempt to commit a felony involving the use or threatened imminent use of physical force against a person; or

(b) The crime committed by the person was kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the peace officer or another person from the use or threatened imminent use of deadly physical force; or

(d) The crime committed by the person was a felony or an attempt to commit a felony and under the totality of the circumstances existing at the time and place, the use of such force is necessary; or

(e) The officer's life or personal safety is endangered in the particular circumstances involved.

(2) Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom the peace officer is not seeking to arrest or retain in custody. [1971 c.743 §28]

IV. DEFINITIONS

Deadly Force: Any use of force that is likely to cause death or serious bodily harm.

Less Lethal Force: Any use of force other than that which is considered deadly force.

Continuum of Force: A graphic description of the escalation and de-escalation of force used by police personnel in response to actions taken by a suspect or offender. It serves to illustrate the legal duty of an officer to use only reasonable force in response to the threat perceived by the officer.

Serious Physical Injury: Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

Reasonable Belief: A reasonable belief in facts or circumstances which if true would in law constitute an offense.

V. CONTINUUM OF FORCE

The Continuum of Force is divided into six specific component parts: (1)Threat Assessment; (2)Considerations of Force Escalation; (3)Levels of Resistance; (4)Levels of Force; (5)Justification; and (6)Control Techniques.

A. Threat Assessment:

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

B. Considerations of Force Escalation:

The Officer 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 officer's commands, or if commands were even possible or 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 officer, others or the Threat.

C. Levels of Resistance:

1. Static (passive): The threat refuses to comply with commands such as balking, becoming dead weight or grasping a solid object.
2. Active: The threat physically resists the officer's verbal commands and/or

attempts to gain physical control by means such as pulling away, attempting to run, attempting to or powering through a control hold.

3. Ominous (assaultive): The threat demonstrates the willingness to engage in combat through aggressive behavior or verbal challenge and threats, coupled with 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 deadly weapon (gun, knife, shank) or a dangerous weapon (lead pipe, broken bottle, tire iron) to inflict or attempt serious physical injury. Or the threat inflicts serious injury through superior size, strength or combative skill.

D. Levels of Force:

An officer justifiably employing force against any person may continue that application until the resistance or threat that caused the officer to take action has been stopped or controlled.

The various levels of force and the circumstances under which they may be used, beginning with the least amount of force and escalating up the scale to deadly physical force, are discussed below.

1. Presence: The officer has an expectation that inappropriate behavior will stop as the officer properly identifies his police 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: Use of chemical or organic weapons, pressure points, joint manipulation techniques, physical control holds or Electronic Restraint Devices.
5. Serious Physical Control: Focused blows, impact weapons, and extended range impact weapons.
6. Deadly Force: Any force likely to cause serious physical injury or death.

E. Justification:

Levels of force that may be applied vary and in most situations may be affected by the individual officer's relative abilities (age, size, etc.) and the information and circumstances known to the officer at the time. When dealing with suspects and offenders, officers should attempt to follow the Force Continuum, starting at the lowest appropriate level.

1. The mere presence of uniformed law enforcement personnel may be enough to control a suspect's actions. Should aggression or resistance escalate, officers should respond with the level of force appropriate to control the situation. If during a situation a suspect's resistance de-escalates, officers should decrease the level of force to an appropriate

level to maintain control.

2. If control is lost, the officer may escalate to the level of force necessary to regain and maintain control. 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 officers or others, disengagement may be exercised as the most proper option until the situation can be properly addressed.
3. It is important to recognize that a situation may require an officer to start at the highest level, or to pass over levels due to suspect actions. By properly applying the Continuum of Force concept, officers will respond lawfully by using only the force necessary to control a situation.

F. Control Techniques:

1. Verbal Command:

In the majority of situations requiring police intervention the officer's verbal command is the only force necessary. The officer'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. Hand Control:

If the use of a verbal command is not effective, or is not likely to be effective in controlling an individual, an officer may need to resort to the second level of force which is the use of Physical contact. When using Physical Contact, an officer may only use that force necessary to control the individual. The force may range from a gentle but firm hold of a person's arm to the use of escort/control holds or a pressure point application or device. 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 an officer is unable (or if the officer believes he or she will be unable) to control a subject by use of hand controls, the officer is justified in using a higher level of force where there is a likelihood of injury to the officer or any other person.

3. Chemical Irritants as Subject Restraint:

The use of chemical irritants may be used to subdue a person who is exhibiting active resistance or is otherwise combative. Use is authorized when resistance or threats of violence—other than verbally only—represent potential escalation of necessary force and officers fear potential injury to; the officers, the arrested individual, or others present. Chemical Irritants may also be used on animals that pose a threat to the officer or others. The officer should consider that the chemical irritants may affect the involved officers to a greater degree than the person who is resisting.

4. Electronic Restraint Device (ERD):

ERDs are designed to stun, restrain, or incapacitate a subject temporarily

by way of delivering an electronic shock. ERDs may be used to subdue a person who is exhibiting active resistance or is otherwise combative. Use is authorized when resistance or threats of violence—other than verbally only—represent potential escalation of necessary force and officers fear potential injury to the officers, the arrested individual, or others present. ERDs may also be used on animals that pose a threat to the officer or others.

5. Impact Weapons including Extended Range Impact Weapons:

Impact weapons are designed for blocking, jabbing, and striking. The use of impact weapons or extended range impact weapons is proper to overcome force of resistance and to control.

- a. Officers may employ the use of impact weapons after lesser levels of force have been exhausted or are inappropriate for the situation.
- b. Impact weapons will be utilized to overcome aggressive resistance, protect persons from bodily harm and or to control an actively resistive combatant.

6. Deadly Physical Force:

No action on the part of a law enforcement officer can have more far-reaching consequences for the officer, Department and community than the use of deadly physical force.

Deadly physical force, therefore, can only be justified in;

- a. The protection of the officer or another from serious physical injury or death or;
- b. To 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, and;
- c. When the officer perceives that other reasonable alternatives have been exhausted or would be ineffective under the particular circumstances. (*i.e., no other viable options*)

VI. REASONABLE FORCE

While the ultimate objective of every law enforcement encounter is to minimize or eliminate injury to everyone involved, nothing in this policy requires a law enforcement officer to actually sustain physical injury before applying reasonable force. Any application of force by a member of this department must be judged by a "reasonableness" standard. When evaluating if an officer has used a reasonable standard, the following factors should include, but not be limited to:

- A. The conduct of in the individual being confronted (as perceived by the officer at the time).
- B. Officer/subject factors (age, size, relative strength, skill level,

injury/exhaustion, number of officers vs. subjects).

- C. Involvement of drugs/alcohol/mental factors.
- D. Proximity of weapons, including the officer's.
- E. Resources/options available to the officer at the time (cover, concealment, tactical retreat or disengagement) reasonably available at the time.
- F. Crime level or reason for subject contact.
- G. Experience and training of the officer.
- H. Potential for injury to the officer, suspect, bystanders.
- I. Risk of escape.
- J. Other exigent circumstances.

This department recognizes that officers are expected to make split second decisions and the amount of time available to evaluate and respond to changing circumstances may impact the officers decision.

VII. 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.

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.

VIII. GUIDELINES GOVERNING THE USE OF DEADLY FORCE

These guidelines re-state the legal principals of justification for the use of force outlines in the Force Continuum. Officers shall review and follow the following general guidelines:

- A. Deadly Force Warning- Whenever practical, an officer shall give some warning before using deadly force. 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 officer has probable cause to believe will pose a *significant and immediate threat* to human life should the escape occur.
- C. Exhaustion of 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 officer at the

time and place that the 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. Even when an officer may be permitted to use deadly force, the officer may refrain from doing so if the officer believes the use of such force is inadvisable under the particular circumstances.
- F. Decision to Display Firearms- An officers decision to exhibit a firearm will be based on the tactical situation and the officers reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer will, as soon as practical, secure or holster the firearm. These judgements are matters committed to the discretion of the officer in each instance, subject to review by the department.
- G. An officer may not use deadly force simply to arrest or prevent the escape of person committing a crime. The only exception is if any such felons present an immediate threat to the life of an officer or citizen, should their immediate apprehension not be made.
 - 1. An officer is authorized to employ deadly force whenever it appears to the officer that there is no reasonable alternative under the following conditions:
 - a. The officer reasonably believes that the use of deadly force is necessary to protect the officer or any other person from the use or threatened imminent use of deadly physical force;
 - b. The officer reasonably believes that the use of deadly physical force is necessary to protect the officer or any other person from death or serious physical injury;
 - c. To 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.

IX. REPORTING THE USE OF FORCE

Any use of physical force by a member of this Department shall be documented promptly, completely, and accurately in the form of a Police Report. In addition, officers are required to complete a Physical Control Report (PCR) to be included with the Police Report whenever the officer uses force at or above the level of "Physical Control" as defined in Section V, subsection D of this policy.

Any officer present during the use of force shall complete a supplemental report accurately and completely depicting the circumstances up to and including the use of force. The Police report and Physical Control Report will be reviewed by a supervisor for policy compliance. These reports will be forwarded to the Lieutenant for possible departmental review.

Officers involved in the use of deadly force may not be required to write an incident narrative. Instead, other officers may be assigned by the Chief of Police or his/her designee to investigate the incident. These investigating officers may be from another agency, if the Chief of Police decides to ask another agency to conduct the investigation.

X. ADMINISTRATIVE LEAVE

Employees involved in a use of force situation that results in the death or serious physical injury of another person shall be placed on Administrative Leave pending the completion of any investigations and Department reviews. During this period the employee(s) and family members if necessary, will be afforded assistance as determined appropriate by the Chief of Police. This is not viewed as disciplinary action.

XI. NOTIFICATION OF SUPERVISORS

Supervisory notification shall be made as soon as practical following the application of physical force, under any of the following circumstances:

1. Where the application of force reasonably appears to have caused physical injury.
2. Any individual involved has expressed complaint of pain.
3. Any application of a physical control device or less lethal delivery system (ie: TASER, O.C. Spray, Impact weapons, etc.)
4. Where the individual has been rendered unconscious.

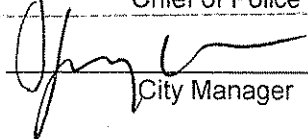
XII. MEDICAL ATTENTION FOR INJURIES SUSTAINED

Appropriate medical treatment will be made available for any person who has injuries. Minor bruises, cuts or abrasions and shall be examined and may not require treatment. More serious injuries will be treated by trained medical personnel or hospital staff.

Effective Date: 5/15/08



Chief of Police



City Manager

INDEPENDENCE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

<i>Subject</i> Use of Force	<i>Effective Date</i> October 3, 2006	<i>Number</i> 5.01
<i>Accreditation Reference</i> 1.3.1, 1.3.2, 1.3.5, 1.3.6, 1.3.7, 1.3.13, 41.2.2, 74.3.1,	<i>Review Date</i>	<i>No. Pages</i> 5
	Vernon T. Wells Chief of Police	

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

This 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. Because a police officer's duties often present situations in which the use of force, or even deadly force, may be necessary, the law and department policy authorize the use of such force in certain circumstances and require that the officer be armed while on regular duty. It is the policy of this department that use of force by its members be:

1. Justified under applicable state law;
2. Consistent with the more specific policies which follow;
3. Professionally accomplished according to approved training and with approved equipment;
4. In all cases employed to accomplish a legitimate tactical objective;
5. Limited to that degree and duration which the officer reasonable believes necessary to accomplish that objective; and
6. Applied by the officer and reviewed by the department based upon those facts which are reasonably believed by the officer at the time, applying legal requirements, department policy, and approved training to those facts. Facts later discovered, but unknown to the officer at the time, can neither justify nor condemn an officer's decision to use force.

Therefore, it is the policy of this 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

Deadly force: Any use of force that is likely to cause death or serious bodily harm.

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

Continuum of Force: A graphic description of the escalation and de-escalation of force used by police personnel in response to actions taken by a suspect or offender. It serves to illustrate the legal duty of an officer to use only reasonable force in response to the threat perceived by the officer.

IV. CONTINUUM OF FORCE

The Force Continuum is divided into six specific component parts: 1) Threat Assessment, 2) Considerations of Force Escalation, 3) Levels of Resistance, 4) Levels of Force, 5) Justification, and 6) Control Techniques.

A. Threat Assessment.

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

B. Considerations Of Force Escalation.

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

1. the totality of the circumstances.
2. has the Threat had the opportunity to comply with your commands, if commands were possible and appropriate.
3. is the current course of action achieving control or compliance?
4. does the option selected warrant the risk of injury to yourself or the Threat?

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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 officer'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) to inflict or attempt serious physical injury. Or the Threat inflicts serious injury through superior size, strength or combative skill.

Levels Of Force.

An officer employing force against any person(s) may continue that application until the resistance or threat that caused the officer to take the action has been stopped or controlled.

The various levels of force and the circumstances under which they may be used, beginning with the least and elevating up the scale to deadly physical force, are illustrated on the charts which follow, and are discussed below.

1. presence. The officer has an expectation that inappropriate behavior will stop as the officer properly identifies his police 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 electronic restraint devices, chemical or organic weapons, pressure points, joint manipulation techniques, or physical control holds.

5. serious physical control. Use of focused blows, impact weapons, police canines and the neck restraint.
6. deadly force. Any force capable of causing serious physical injury or death.

E. Justification

Levels of force that may be applied vary and in most situations may be affected by the officer's training, experience, and the information and circumstances known to the officer at the time. When dealing with suspects and offenders, officers should attempt to apply the Force Continuum, starting at the lowest appropriate level.

1. The mere presence of uniformed police personnel may be enough to control a suspect's actions. Should aggression or resistance escalate, officers should respond with the level of force appropriate to control the situation. If during a situation a suspect's resistance de-escalates, officers should decrease the level of force to an appropriate level to maintain control.
2. If control is lost, the officer 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 officers or others, disengagement may be exercised as the most proper option until the situation can be properly addressed.
3. It is important to recognize that a situation may require an officer to start at the highest level, or to pass over levels due to suspect actions. By properly applying the Continuum of Force concept, officers will respond lawfully by using only the force necessary to control a situation.

F. Control Techniques

1. Verbal Command: In the majority of situations requiring police intervention the officer's verbal command is the only force necessary. The officer'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. Hand Control: If the use of a verbal command is not effective, or is not likely to

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be effective in controlling an individual, an officer may need to resort to the second level of force which is the use of hand control, aerosol, or electronic restraint. When using hands, electronic or aerosol subject restraint, the officer 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 or a Kubotan-type device. 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 an officer is unable (or if the officer believes he or she will be unable) to control a subject by use of hand controls, the officer is justified in using a higher level of force, or prior to making any physical contact, may opt to use an electronic or aerosol restraint prior to making actual physical contact where there is a likelihood of injury to the officer or any other person.

3. **Chemical Irritants as Subject Restraint:** The use of chemical 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 officers fear potential injuries to the officers, the arrestee, or others present. The officer should consider that the officer utilizing chemical 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. **Neck Restraint:** The neck restraint hold is utilized to overcome aggressive resistance in which a lower level of force is ineffective or inappropriate under the circumstances.
6. **Deadly Physical Force:** No action on the part of a law enforcement officer can have more far-reaching consequences for the officer, Department and community than the use of deadly physical force. Deadly physical force, therefore, can only be justified in the protection of the officer or another from serious physical injury or death or to 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.

V. USE OF REASONABLE PHYSICAL FORCE

Officers are permitted to use only that force which the officer reasonably believes is necessary to protect others or themselves from bodily harm or to effect any other lawful police action. The officers 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, 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 officer 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 an officer 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 officer 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 incapable of continuing the dangerous conduct which justified the use of deadly force in the first place. Where deadly force is justified, an officer may continue its use until satisfied that the goal has been achieved, and then must discontinue its use. Officer safety and the safety of persons other than the threat must be a continuing consideration to the officer using deadly force.

VI. GUIDELINES GOVERNING THE USE OF FORCE

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While the use of force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to 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 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 provided for any person injured as a result of an officer's use of force, by officers, ambulance or emergency medical staff, and/or hospital personnel:

- Persons subjected to chemical 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, police department, 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 alleging to have been injured by an officer shall be transported to the hospital for examination and/or treatment.
- If any loss of consciousness results from a use of force, that person 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 Use of Force Continuum. Officers shall be directed by the following general guidelines:

A. Deadly Force Warning

Wherever practical under the circumstances, an officer shall give some warning before using deadly force.

B. Use Of Deadly Force.

Deadly force will be used only for the protection of life or prevention of serious bodily injury or to 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.

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 officer at the time and 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. Officer Discretion:

Even when an officer may be permitted to use deadly force, the officer may refrain from doing so if the officer believes the use of such force is inadvisable under the particular circumstances.

F. Decision To Display Firearms:

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer should, as soon as practical, secure or holster the firearm. These judgments are matters committed to the discretion of the officer in each instance. The officer must decide what actions are necessary in order to maintain control.

G. Justification On The Use Of Deadly Force:

An officer 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 an officer or a citizen, should their immediate apprehension not be made.

1. An officer is authorized to employ deadly force whenever it appears to the officer that there is no reasonable alternative under the following circumstances:

- a. The officer reasonably believes that the use of deadly force is necessary to protect the officer or any other person from the use or threatened imminent use of deadly physical force;
- b. The officer reasonably believes that the use of deadly physical force is necessary to protect the officer or any other person from death or serious physical injury;

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- c. To 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.

VIII. REPORTING THE USE OF FORCE

Whenever an officer must employ an amount of force capable of causing injury, a case number will be established and assigned in regard 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 immediately.

A. Involved Officers.

The officers involved in the use of force and any other officer notified by a supervisor shall report the use of force documented on the office Physical Control / Use of Force Administrative Report form and in the narrative section of a written report when:

1. An officer discharges a firearm in the line of duty for other than training purposes.
2. Death or injury results or is alleged to have resulted to any person;
3. Medical treatment is required or requested;
4. When a non-lethal weapon is used on a person.
5. The force used relates to a criminal charge, irrespective of whether or not the incident results in an arrest.
6. Anytime a weapon is displayed on or off duty in any situation, when acting in the capacity of an officer, except on an approved firearms range, a written report explaining the circumstances will be completed prior to the end of the shift. The Chief of Police or Acting Chief of Police will be notified no later than 0800 the following day.

The incident narrative shall describe the force used. The narrative shall also articulate the facts observed by the officer and the beliefs held by the officer that lead the officer to decide that the level of force used was justified. The office Physical Control / Use of Force Administrative Report form will be filled out completely and attached to the front of the written report. Weapons used, injuries, medical care received, and details of the altercation shall be reported in detail. Witnesses shall be listed. If possible, a copy of medical records shall be attached.

The written report should be submitted by the end of the shift. The officer'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 Chief of Police for administrative review through the chain of command.

B. Incident Review.

1. Determinations will be made at each level of the Chain of Command whether or not all departmental guidelines were met. Each level in the Chain of Command will recommend actions in regard to those officers involved in the use of force incident.
2. The Chief of Police, based on the Use of Force Review, may convene an Administrative Hearings Board to examine the use of force incident and may take appropriate action. The Use of Force Review process will be completed as expeditiously as possible.
3. The Departmental Review shall be based upon those facts which are reasonably believed by the officer at the time, applying legal requirements, department policy and procedures, and approved training to those facts. Facts later discovered, but unknown to the officer at the time, can neither justify nor condemn an officer's decision regarding use of force.
4. An annual review will be conducted of 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 department policy and/or training needs.

WARNING

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department 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 departmental administrative sanctions.

**MONMOUTH POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE 5.01
USE OF FORCE**

OAA STANDARDS

1.3.1, 1.3.2, 1.3.5, 1.3.6, 1.3.7, 41.2.2

Authorized by Chief Darrell Tallan

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Purpose

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

Policy

The Monmouth 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. Because a police officer's duties often present situations in which the use of force, or even deadly force, may be necessary, the law and department policy authorize the use of such force in certain circumstances and require that the officer be armed while on regular duty. It is the policy of this department that use of force by its members be:

- 1) Justified under applicable state law;
- 2) Consistent with the more specific policies which follow.
- 3) Professionally accomplished according to approved training and with approved equipment.
- 4) In all cases employed to accomplish a legitimate tactical objective.

5) Limited to the degree and duration the officer reasonably believes necessary to accomplish his/her lawful objective.

6) Force is applied by the officer and reviewed by the department based upon the facts reasonably believed by the officer at the time, applying legal requirements, department policy, and approved training to those facts. Facts later discovered, but unknown to the officer at the time, can neither justify nor condemn an officer's decision to use force.

Therefore, in situations requiring officers to use verbal, physical, or deadly physical force, officers shall only apply force in a lawful, reasonable, and justifiable manner to accomplish lawful objectives.

Definitions

Deadly force: Any use of force likely to cause death or serious bodily harm.

Non-deadly force: Any use of force other than deadly force.

Probable Cause: A substantial objective basis for believing more likely than not, an offense has been committed, and the person to be arrested is the one who committed the offense.

Reasonable Belief: A reasonable belief in facts or circumstances which if true would in law constitute an offense.

Serious Physical Injury: Physical injury creating a substantial risk of death, serious

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or protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the functions of any bodily organ.

Continuum of Force: A graphic description of the escalation and de-escalation of force used by police personnel in response to actions taken by a suspect or offender. It serves to illustrate the legal duty of an officer to use reasonable force in response to the threat perceived by the officer.

Continuum of Force

The Force Continuum is divided into six specific component parts. They are as follows:

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

Considerations Of Force Escalation-

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

- *The totality of the circumstances*

Has the Threat had the opportunity to comply with your commands, if commands were possible and appropriate.

- *Is the current course of action achieving control or compliance?*

Does the option selected warrant the risk of injury to yourself or the Threat?

Levels Of Resistance-

Static (passive)-The Threat refused to comply with commands such as balking,

becoming dead weight, or grasping a solid object.

Active- The Threat physically resists the officer'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.

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

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) to inflict or attempt serious physical injury. Or the Threat inflicts serious injury through superior size, strength or combative skill.

Levels Of Force-

An officer employing force against any person(s) may continue the application until the resistance or threat causing the officer to take the action has been stopped or controlled.

The various levels of force and the circumstances they may be used, beginning with the least and elevating up the scale to deadly physical force, are illustrated on the following charts:

Presence- The officer has an expectation inappropriate behavior will stop as the officer properly identifies his police authority.

Verbal commands (tactical communications)- The questioning of a subject, the attempt to persuade a subject, or giving a direct order to a subject.

Physical contact- Directing a subject by touch, use of physical restraints such as

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handcuffs or controlling a subject with an escort hold.

Physical control holds- Use of chemical or organic weapons, electronic stun devices, pressure points, joint manipulation techniques, or physical control holds.

Serious physical control- Focused blows, impact weapons, police canines.

Deadly force- Any force capable of causing serious physical injury or death.

Justification-

Levels of force applied can vary and in most situations may be affected by the officer's training, experience, and the information and circumstances known to the officer at the time. When dealing with suspects and offenders, officers should attempt to apply the Force Continuum, starting at the appropriate level with consideration to the level of resistance displayed by the threat.

The mere presence of uniformed police personnel may be enough to control a suspect's actions. Should aggression or resistance escalate, officers should respond with the level of force appropriate to control the situation. If during a situation a suspect's resistance de-escalates, officers should decrease the level of force to an appropriate level to maintain control. If the threat makes an officer react to their actions by forcing the officer to escalate from physical contact to physical control, the officer **SHOULD NOT** revert to any level of force lower than physical control until the officer has complete control of the threat.

If control is lost, the officer 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 officers 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 an officer to start at the highest level, or to pass over levels due to suspect actions. By properly applying the Continuum of Force concept, officers will respond lawfully by using only the force necessary to control a situation.

Control Techniques-

Verbal Command- In the majority of situations requiring police intervention the officer's verbal command is the only force necessary. The officer's confidence, tone of voice and attitude, the clarity of directions, and choice of words are factors bearing on the effectiveness of a verbal command.

Hand Control- If the use of a verbal command is not effective, or is not likely to be effective in controlling an individual, an officer may need to resort to the second level of force which is the use of hand control, an aerosol subject restraint, or the use of electronic stun devices. When using hands, aerosol subject restraint, or electronic stun devices, the officer may only use 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 an officer is unable (or if the officer believes he or she will be

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unable) to control a subject by use of hand controls, the officer is justified in using a higher level of force, or prior to making any physical contact, may opt to use an aerosol restraint or electronic stun device prior to making actual physical contact where there is a likelihood of injury to the officer or any other person.

Chemical Irritants or Electronic Stun Devices as Subject Restraint- The use of chemical irritants or Electronic Stun Devices 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 officers fear potential injuries to the officers, the arrestee, or others present. The officer should consider the possibility of chemical irritants affecting them to a greater degree than the person who is resisting.

Vascular Neck Restraint- The Monmouth Police Department does not train on this control technique, nor would it condone its use except in circumstances where deadly force would be justified.

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

Deadly Physical Force- No action on the part of a law enforcement officer can have more far-reaching consequences for the officer, Department and community than the use of deadly physical force.

Deadly physical force, therefore, can only be justified if the officer reasonably believes it is necessary in the protection of the officer or another from serious physical injury or death or to 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.

Reasonable Force

No policy can realistically predict every possible situation officers might encounter in the field. Each officer is entrusted with discretion in determining the appropriate use of force in each incident. The ultimate objective is to eliminate or minimize injury to suspects, officers, and any other person involved. Nothing in this policy requires an officer to sustain physical injury before applying reasonable force.

Any application of force by officers of the Monmouth Police Department will be judged by the standard of "reasonableness". When determining the reasonableness of force applied, a number of factors shall be taken into consideration. These factors include, but are not limited to:

- A. The conduct of the individual being confronted (as perceived by the officer).
- B. Officer / Suspect factors (age, size, relative strength, skill level, injury, exhaustion, number of suspects compared to number of officers)
- C. Influence of drugs, alcohol, or mental factors.
- D. Proximity to weapons.
- E. Availability of other options (what other resources are reasonably available to the officer under the circumstances)
- F. Seriousness of the suspected offense or reason for contact with individual.
- G. Training and experience of the officer.

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- H. Potential risk of harm to a citizen, suspect or officer.
- I. Risk of escape.
- J. Other exigent circumstances.

Officers are expected to make split second decisions, and the amount of time available to evaluate and respond to changing circumstances may impact an officer's decision. This will be considered when determining reasonableness.

While various levels of force exist, officers are expected to use only the level of force, which reasonably appears to be necessary under the circumstances at the time, to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

Non-Deadly Force-

Every (with exception to verbal and presence) use of force carries the risk of some injury or death 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, or a combination of those objectives. Once the goal is achieved, further use of physical force must be discontinued. Until the goal is achieved, the level and extent of force used must be limited to what is reasonably believed necessary by the officer to achieve the goal.

Deadly Force-

When circumstances justify the use of deadly force, the unavoidable risk is someone will be killed or seriously injured. Although an officer 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 officer 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 the person incapable of continuing the dangerous conduct which justified the use of deadly force in the first place. Where deadly force is justified, an officer may continue its use until satisfied the goal has been achieved, and then must discontinue its use. Officer safety and the safety of persons other than the threat must be a continuing consideration to the officer using deadly force.

Guidelines for Governing the Use of Force

While the use of force may be necessary in situations not in control, force may not be resorted to unless other reasonable alternatives have been exhausted or would be ineffective under the particular circumstances.

Reasonableness-

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

Medical Treatment-

Appropriate medical treatment will be provided for any person injured as a result of an officer's use of force, by officers, ambulance or emergency medical staff, and/or hospital personnel:

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- Persons subjected to chemical irritants such as oleo capsicum resin, shall have the affected areas flushed with water as soon as safe and practical.
- 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 alleging to have been injured by an officer shall be transported to the hospital for examination and/or treatment.
- If any person loses consciousness resulting from a use of force, the person will be examined by trained medical personnel.
- Any person sustaining injury as a result of lethal, or less than lethal weapons will be seen by medical personnel as soon as possible.

Guidelines Governing the Use of Deadly Force

These guidelines reaffirm legal principles of justification for the use of force, represented by the Use of Force Continuum. Officers shall be directed by the following general guidelines:

Deadly Force Warning-

Whenever ~~practical~~ under the circumstances, an officer shall give some warning before using deadly force.

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 officer has probable cause to believe will pose a

significant and immediate threat to human life should escape occur.

Exhaust Reasonable Means-

Reasonable and practical attempts for protection or apprehension will be exhausted before using deadly force when possible. Reasonableness and practicality are to be judged based upon the circumstances existing and are perceived by the officer at the time and place deadly force is used.

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.

Officer Discretion-

Even when an officer may be permitted to use deadly force, the officer may refrain from doing so if the officer believes the use of such force is inadvisable under the particular circumstances.

Decision To Display Firearms-

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk the situation may escalate to the point where deadly force may be justified. When an officer has determined the use of deadly force is not necessary, the officer should, as soon as practical, secure or holster the firearm. These judgments are matters committed to the discretion of the officer in each instance. The officer must decide what actions are necessary in order to maintain control. Displaying a firearm less the application of the weapon is not considered a use of deadly force.

Justification On The Use Of Deadly Force-

An officer 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

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immediate threat to the life of an officer or a citizen, should their immediate apprehension not be made.

An officer is authorized to employ deadly force whenever it appears there is no reasonable alternative under the following circumstances:

- a. The officer reasonably believes the use of deadly force is necessary to protect the officer or any other person from the use or threatened imminent use of deadly physical force.
- b. The officer reasonably believes the use of deadly physical force is necessary to protect the officer or any other person from death or serious physical injury.
- c. To 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.

Reporting the Use of Force

Whenever an officer must employ an amount of force capable of causing injury, a case number will be generated and assigned in regard to the incident. If the force is employed in the course of affecting an arrest, overcoming resistance, or controlling a dangerous situation (assault), appropriate criminal charges shall be filed.

Involved Officers:

Any officer involved in a use of force situation, and any officer witnessing such action shall document the incident in the narrative portion of their police report. Police report documentation is required when:

- An officer discharges a firearm in the line of duty for other than training purposes.

- Death or injury has resulted or is alleged to have resulted to any person.
- When any weapon is used on a person. This would include the deployment of a weapon less the physical application. Officers witnessing display of a weapon less the physical application may not be required to submit a police report depending on the circumstances. A supervisor may require a written report from witnessing officers.
- When force is applied without weapons above the physical contact standard.
- Medical treatment is required or requested.
- The force used relates to a criminal charge, irrespective of whether or not the incident results in an arrest.

The police report narrative shall describe the force used. The narrative shall also articulate the facts observed by the officer and the beliefs held by the officer during the incident justifying the reasonable and proper application of force.

The report shall include weapons used, injuries, medical care received, details of the altercation and a description of the conduct leading to the application of force. Witnesses shall be listed and if possible, a copy of medical records shall be attached.

The written report shall be submitted by the end of the officer's shift. The officer shall notify the supervisor for a review of the report as soon as possible.

In some situations involving the use of force, a written report may not be required. This is at the discretion of the

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supervisor exclusively for situations of extreme nature where an interview and investigation may be required.

Use of Force Report Form-

Any officer having to document a use of force under this policy shall also complete a "Use of Force" report form. The forms shall be turned in to Records with other paperwork, and routed to the Chief of Police.

Administrative Review-

To ensure the guidelines of the Monmouth Police Department have been met, incidents involving the use of force will be reviewed by each level of the chain of command.

The Chief of Police based on the administrative review may convene a hearing to examine the use of force application.

The Administrative Review shall be based upon the facts reasonably believed by the officer at the time, applying legal requirements, department policy and procedures, and approved training to those facts. Facts later discovered, but unknown to the officer at the time, can neither justify nor condemn an officer's decision regarding use of force.

An annual evaluation will be conducted of all use of force incidents resulting in an Administrative Review. A report will be generated and sent through the chain of command. The report will be helpful in reviewing past use of force incidents, to assist in identifying policy and training needs.

Administrative Leave

Officers involved in a use of force situation resulting in death or serious physical injury, shall be placed on paid administrative leave pending the completion of any investigation and administrative review. During this time, officers and their families will be afforded assistance as determined by the Chief of Police. Administrative leave **is not** a disciplinary action.

Policy Training

All agency personnel authorized to carry lethal and less lethal weapons shall be given annual training on this policy, and policy 5.02 "Force Specific Instrumentality". Each officer will be supplied with a copy of these policies during the annual training. The issuance of the policy, and the training shall be properly documented.

Caution

This directive is for Monmouth Police Department personnel and does not supercede existing state or federal law. This policy should not be construed as a creation of higher legal standards of safety or care in an evidentiary sense with respect to third party claims.

**MONMOUTH POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE 5.02
FORCE SPECIFIC INSTRUMENTALITY**

OAA STANDARDS

1.3.3, 1.3.4, 1.3.5, 1.3.9, 1.3.10, 1.3.11, 16.3.6

Authorized by Chief Darrell Tallan

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Purpose

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

Policy

Refer to Policy S.O.P. 5.01, Use of Force)

Definitions

Deadly force- Any use of force likely to cause death or serious physical injury.

Non-deadly force- Any use of force other than deadly force.

Vascular Neck Restraint- A carotid restraint is any physical hold applied to the neck of another person intended to inhibit blood flow through the carotid arteries of the neck by exerting pressure, to one or both sides of the neck through the member's use of hands, arms, or any other instrument.

Chemical Irritants- Substances, either natural or man-made, designed and used to temporarily incapacitate a suspect.

Electronic Restraint Device- A device designed to stun, restrain or incapacitate a suspect temporarily by way of delivering an electronic shock.

Firearm- Any weapon, designed to propel a projectile or projectiles by the use of a

chemical explosion, and capable of causing serious physical injury or death.

Impact Weapon- Police baton, side-handle baton, collapsible baton, or any other such instrument or device designed or used to block, jab, strike, or temporarily restrain or control a suspect by way of physical impact or extending the officer's ability to use control holds.

Instructor/Instruction- Departmental instructors and instruction will meet or exceed Department of Public Safety Standards and Training criteria prior to being accepted by the Training Officer. Such instructors and instruction are then deemed "certified" and used to monitor proficiency. (Policy 3.12)

Less-lethal projectiles- Fired from a firearm or similar device, less lethal projectiles are designed to stun or incapacitate a suspect temporarily without penetrating the body or causing serious physical injury or death.

Patrol Canine- A canine trained for and employed by law enforcement officers, the use of which includes, but may not be limited to, handler protection and the location and apprehension of suspects.

Restraints/Handcuffs- Handcuffs, flex-cuffs, hobbles, belly chains, and all such devices designed or used for temporarily restraining a person for the purpose of officer safety or to prevent injury to the person or another.

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Vehicular Use of Force- Deployment of a motor vehicle as a use of force to stop or control a suspect or vehicle beyond a traffic stop or normal vehicular operation.

Department authorized weapons and ammunition

Only weapons and ammunition specifically authorized by the department shall be carried and or used during on-duty, or off-duty periods of time. This applies exclusively to weapons being used by Officers for a law enforcement responsibility.

Personnel Authorized to Use Weapons

All sworn personnel must demonstrate proficiency in the use of agency-authorized weapons to be approved to carry such weapons. This includes weapons approved by the agency for on-duty and off-duty use. Training for lethal weapons shall be given quarterly. Less than lethal training shall be given biennially.

Proficiency includes an applied demonstration of the weapon in a training exercise, a demonstration in the knowledge of laws, and department policies to which the weapon applies, and demonstrating the ability to safely handle department weapons.

Instruction, qualification and proficiency of all weapons will be given and monitored by a state certified weapons instructor.

Training and proficiency will be documented.

Warning of Use

Officers should issue a warning of the impending use of force except where impractical or tactically disadvantageous, such as in situations where the warning

would endanger the officer or another, alert the suspect to escape or allow actions to be taken which aid or abet a crime.

Use of Force related injuries

Once a person is in police custody, it is the responsibility of the officers to render or obtain any medical aid required. With any use of physical force where an injury has occurred or is alleged to have occurred, the officer should observe and evaluate, treat or obtain medical aid, document, and report.

Observe and Evaluate-

If an injury is apparent to a person in custody, the officer should observe and evaluate the injury to assure the proper level of care is provided. If a person in custody alleges an injury and none is apparent, the officer will summon appropriate trained medical response for an evaluation.

Treat or Obtain Medical Aid-

Appropriate medical treatment shall be provided to any person injured or alleged injured as a result of a use of force. This may include, but is not limited to:

- Flushing the eyes and skin of a person subjected to oleoresin capsicum or other chemical irritant, and monitoring the person for complications.
- Washing and bandaging minor cuts or abrasions resulting from the application of physical force during an arrest.
- Obtaining trained medical attention and ambulance transport to medical facilities for persons with more serious injuries.

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Documentation-

Officers should take all practical measures to fully document the injuries:

- Note carefully location, extent, and appearance of the injury for reporting purposes.
- Photograph the injury as soon as possible if at all possible.
- Obtain witness names and statements from medical personnel or others at the scene.
- Obtain all medical records possible if the subject is treated by emergency medical personnel or at a hospital facility.
- Note carefully any statements made by the suspect.

Reporting Use of Force Injuries-

Policy and procedures for reporting the use of force are described in S.O.P. 5.01 "Use of Force".

Vascular neck restraint

The Monmouth Police Department does not currently train on the vascular neck restraint, nor does it employ its use except in cases where deadly force is justified.

Chemical Irritants

Chemical Irritants are considered a "physical-control-hold" level of force and shall be employed in a manner consistent with this agency's use-of-force policy. (Refer to S.O.P. 5.01, "Use of Force")

Department Issued Chemical Irritants-

Officers will carry only Department issued Chemical Irritants. These fall into two categories: personal issue and tactically deployed.

Personal issue-

Officers whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required, while on duty, to carry departmentally authorized oleoresin capsicum aerosol restraint spray.

Tactically deployed-

The Department may deploy by various means Chemical Irritants such as oleoresin capsicum, CN, and CS during riot or emergency situations. The use of these agents will be determined and controlled by the tactical commander based on training, situation and tactical doctrine.

Training-

Only officers who have completed the prescribed course of instruction on the use of OC are authorized to carry the device.

Officers will be instructed in the department's use of force policy and applicable laws prior to being issued a chemical irritant.

Officers will receive orientation and training regarding the use of oleoresin capsicum, its affects, ingredients, means of delivery and first aid. This instruction will be included in the officer's training file, prior to being issued OC.

Officers will receive training, at least annually, on the department's use of force policy and the proper use of chemical irritants, and will demonstrate a proficient knowledge of their use. This proficiency will be documented in the officer's training file.

An officer failing to demonstrate proficiency shall not be authorized to use chemical irritants until remedial training has been completed; and current

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proficiency demonstrated and documented in the officer's training file.

Use of Chemical Irritants-

Oleoresin capsicum may be used when:

- Verbal dialogue has failed to bring about the subject's compliance, and
- The subject has signaled his intention to actively resist the officer's efforts to make the arrest.
- Oleoresin Capsicum may be used on animals as a deterrent to aggressive behavior when an officer reasonably believes such aggression may cause injury to the officer or any other person who is present.

The effects of OC vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being sprayed. Officers should also be prepared to employ other means to control the suspect to include, if necessary, other force options consistent with agency policy if the suspect does not respond sufficiently to the spray and cannot otherwise be subdued.

Officers may use deadly force to protect themselves, from the use or threatened use of OC when the officer reasonably believes deadly force will be used against him/her if they become incapacitated.

Once a suspect is incapacitated or restrained, use of OC is no longer justified unless the officer reasonably believes the suspect is a continuing threat because of the tactical situation or some other articulated fact.

Additional considerations-

Within several seconds of being sprayed by OC, a person will normally display

symptoms of temporary blindness, have difficulty breathing, burning sensation in the throat, nausea, lung pain and/or impaired thought processes.

Consistent with Departmental training in the use of Oleoresin capsicum, the officer using the chemical irritant should be aware of additional considerations including, but not limited to:

Collateral effects:

Whenever possible, officers should:

- Be upwind from the suspect before using OC.
- Maintain a safe distance from the suspect of between two and 10 feet.
- Avoid using OC, under conditions possibly affecting innocent bystanders.
- Offer assistance to any individuals accidentally exposed to OC spray who feel the effects of the agent.

Treatment of affected persons-

Once the suspect has been restrained, officers shall assist him by rinsing with clean water and drying the exposed area.

Additional care shall also include:

- Ventilating any vehicles or interiors of buildings when practical.
- Continuously monitor suspects (whom have been sprayed) for indications of medical problems. These persons shall not be left alone while in police custody.
- Being alert to any indications the individual being sprayed needs medical care upon application.

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- Immediately summoning medical personnel upon observing any medical problems or if the suspect requests medical assistance.

Maintenance-

All OC spray devices shall be maintained in an operational and charged state.

Replacements of OC spray canisters shall occur when the unit has been discharged in any significant amount.

Periodically, the officer shall inspect OC canisters. Officers shall return canisters to the supervisor for replacement when expired, damaged, inoperable or depleted.

Electronic restraint devices

Electronic stun devices are considered a "physical control" level of force and shall be employed in a manner consistent with the department's use-of-force policy. Refer to policy 5.01, "Use of Force".

Department issued electronic stun devices-

Officers will only use Monmouth Police Department issued electronic stun devices.

Authorized and Approved-

- Taser International X26

Training

Only Officers who have completed the prescribed course of instruction on the use of the X26 taser are authorized to carry the device.

Officers will be instructed in the Departments use of force policy and applicable laws prior to being issued an electronic stun device.

Officers will receive orientation and training regarding the use of the X26 taser, it's affects, means of delivery and first aid. This information will be included in the Officer's training file, prior to being authorized to use an electronic stun device.

Officers will receive training, at least annually, on the Departments use of force policy and the proper use of electronic stun devices, and will demonstrate a proficient knowledge of their use. This proficiency will be documented in the Officer's training file.

An Officer failing to demonstrate proficiency shall not be authorized to use electronic stun devices until remedial training has been completed and current proficiency demonstrated and documented in the Officers training file.

Use of Electronic Stun Device

The X26 Taser may be used when:

- Verbal dialogue has failed to bring about the subject's compliance, and
- The subject's behavior indicates an intention to resist arrest, become physically aggressive, or combative.

The X26 Taser may be used on animals, as a deterrent to aggressive behavior, when an officer reasonably believes such aggression may cause injury to the officer or any other person whom is present.

The effects of electronic stun devices vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after the taser has been deployed. Officers should also be prepared to employ other means to control the suspect to include, if

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necessary, other force options consistent with agency policy if the suspect does not respond sufficiently to the taser and cannot otherwise be subdued.

An Officer may use deadly force to protect himself from the use or threatened use of electronic stun devices when the Officer reasonably believes deadly force will be used against him/her if he/she becomes incapacitated.

Once a suspect is incapacitated or restrained, use of the taser is no longer justified unless the Officer reasonably believes the suspect is a continuing threat.

Additional Considerations

Consistent with Monmouth Police training in the use of Electronic stun devices, the Officer using the taser should be aware of additional considerations including, but not limited to:

Collateral effects- The Officer should avoid contact with the probes and wires when placing a suspect into custody. If the Officer contacts the probes or wires they may experience some of the shock of the weapon but should not be incapacitated.

Environment- Officers shall not deploy the Taser X-26 on people in areas exposed to flammable liquids or combustible environments such as methamphetamine labs. The arc of the taser could ignite flames.

Suspect Condition- Officers when possible, should avoid using the Taser X-26 on pregnant women or elderly persons. There are increased medical concerns to people in these conditions.

Probe placement- The most effective probe placement is in the large muscle groups. Officers shall not intentionally employ the probes into the face, head,

neck or groin unless the situation dictates a higher level of injury risk is justified.

Conclusion- Once the suspect is incapacitated or restrained, the use of the taser is no longer justified unless the officer reasonably believes the suspect is a continuing threat.

Officers employing the use of the Taser X-26 will, in addition to the use of force report, complete a Supervisory Taser Use Report. All expended cartridges shall be collected and placed into evidence. Any unintentional Taser discharge shall be reported to a supervisor.

Treatment of affected persons-

Once the suspect has been restrained, Officers shall assist him by locating the probes and determine if medical treatment is needed to remove the probes.

Medical personnel shall remove the probes if they penetrate any of the following areas;

- Head
- Face
- Neck
- Female breast
- Male nipple area
- Groin
- Any deeply imbedded probes

All probes penetrating the skin shall be considered a bio-hazard and shall be properly disposed of exercising due care.

Suspects receiving a taser deployment shall be monitored continuously for indications of medical problems.

Immediately after taser deployment on a suspect, Officers shall be alert to any

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indications the individual needs medical care.

Upon observing any medical problems or if the suspect requests medical assistance, the Officer shall immediately summon emergency medical aid.

Maintenance

All electronic stun devices shall be maintained in an operational and charged state.

Replacements of power supplies and inspection of the weapons shall occur on a preset schedule set up by Taser International.

Firearms

Use of firearms constitutes a "deadly force" level of force, and shall be used only in situations where the use of deadly force is justified. (Refer to S.O.P. 5.01, Use of Force)

Department Issued Firearms-

Officers will carry only Department issued firearms, or those specifically authorized by the Chief of Police. The Department will provide ammunition. On-duty officers shall only use ammunition supplied by the Department.

Handgun- The Department issues the Glock, Model 22 semi-automatic pistol, chambered in .40 caliber. High capacity magazines are issued by the Department, exclusively for law enforcement use.

Shotgun- The Department utilizes the Remington Model 870 pump action shotgun chambered in 12 gauge. Barrel lengths and magazine capacity may vary according to assignment.

Rifle- The Department issues the Colt, AR-15 semi-automatic rifle chambered for the .223 caliber ammunition.

The Department also issues the Ruger Carbine, semi automatic, rifle chambered in .40 caliber ammunition.

Other firearms- The Department may issue other firearms necessary to the purposes of law enforcement as authorized by the Chief of Police including but not limited to those whose specific purpose or design is delivery of chemical irritants, full automatic firing capability, or precision long range shot placement.

Training-

(Refer to Policy 3.14, Firearms Training). Officers may carry and use only those firearms they have received training and demonstrated proficiency in the use of.

Officers will be instructed in all applicable laws on the use of deadly force and Department use of force policy prior to being issued any firearm.

Officers will successfully complete the Basic Police Academy course on firearms instruction or its accepted equivalent prior to being authorized to carry a firearm.

Officers will receive firearms training at least bi-annually. They will demonstrate a current knowledge of the Department's use of force policy received during annual training, and an acceptable level of proficiency with each firearm they are authorized to carry.

Levels of proficiency and frequency of qualifications with each weapon will be set by the Chief of Police. The officer's performance will be documented in their training file.

An officer failing to demonstrate proficiency shall not be authorized to carry the firearm until remedial training has been completed; and current proficiency demonstrated and documented in the officer's training file.

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Use of Firearms-

Use of firearms by law enforcement officers in the performance of their duties constitutes one of the most closely scrutinized aspects of the profession. Officers are authorized to use firearms when necessary:

- To protect the officer or another from serious physical injury or death.
- To prevent the escape of a fleeing felon whom the officer has probable cause to believe poses a significant and immediate threat to human life should escape occur.
- To destroy or deter a dangerous animal or, with permission from a supervisor, to destroy a badly injured animal to prevent further suffering.
- At a firing range pursuant to all safety rules and regulations.

Unauthorized firearms Use-

Officers are prohibited from discharging firearms from a moving vehicle.

Discharging a firearm is not authorized as a signal, warning, or communication method.

Any accidental discharge of a firearm by an officer occurring during law enforcement related functions will be immediately reported to the on duty supervisor. An incident report will be generated, and copies forwarded to the Chief of Police.

Officers will not display their weapons for casual civilian observation.

Firearms shall not be used to threaten or intimidate persons.

Maintenance-

Any firearm authorized by this Department to be carried by an officer will be maintained in a clean and operational condition. They are subject to unannounced inspections by a supervisor or the Range Master.

Firearms will be inspected as part of each scheduled firearms range training sessions.

Impact Weapons

Use of impact weapons to extend a control hold may range upward from a "physical control" level of force. Use of impact weapons to block, jab, or strike constitutes a "serious physical control" level of force. (Refer to S.O.P. 5.01 "Use of Force").

Department Issued Impact Weapons-

Officers will carry only Department issued or authorized impact weapons.

Collapsible baton- The Department issues, for standard deployment, a collapsible baton. The baton will be in the officer's possession when assigned to the patrol, traffic or investigations functions.

Riot baton- The Department may issue, during times of civil unrest or emergency, a riot baton for use with units assigned to riot and crowd control functions.

Impromptu impact weapons- Nothing in this section precludes an officer from using an impromptu impact weapon (such as the police issue flashlight) if the officer is justified in its use to protect them or another from serious physical injury or death.

Training-

Only officers who have received training and have demonstrated proficiency in the use of impact weapons may carry and use them.

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Officers will be instructed in the department's use of force policy and applicable laws prior to being issued an impact weapon.

Officers will receive training in the proper use of impact weapons prior to the weapon being deployed with the officer. This will be documented in the officer's training file.

Officers will receive annual training in the department's use of force policy and the proper use of impact weapons, and will demonstrate proficiency in their use. This will be documented in the officer's training file.

An officer failing to demonstrate proficiency shall not be authorized to use impact weapons until remedial training has been completed; and current proficiency demonstrated and documented in the officer's training file.

Use of Impact Weapons-

Only the amount of force reasonably believed necessary to protect persons from bodily harm or to affect a lawful police action may be used.

Impact weapons may be used as an extension of an officer's ability to apply a control hold to overcome "static" or higher levels of resistance. This includes, but is not limited to leverage applications, wrist or other joint locks, arm bars, come along holds, and takedowns.

Impact weapons may be used as a blocking, jabbing, or striking weapon to overcome "active" or higher levels of resistance. This includes, but is not limited to jabs and rakes intended to stun or gain compliance, strikes to major muscle groups for the same purpose, or strikes to areas such as wrists or shins designed to disarm or incapacitate.

Impact weapons may be intentionally used on targets identified as potentially lethal, such as the head or groin, only in situations where the use of deadly force is justified.

Unauthorized use-

Impact weapons shall not be used to threaten, intimidate or punish any person.

Impact weapons shall not be used for anything other than law enforcement purposes.

Officers should exercise restraint and consideration before demonstrating or displaying their impact weapons. They should not normally be subject to casual civilian observation.

Maintenance-

Department issued impact weapons will be kept in a clean, operational condition at all times.

Less-lethal projectiles

Use of less-lethal projectiles constitutes a "serious physical control" level of force. (Refer to S.O.P. 5.01, "Use of Force").

Department Authorized Less-Lethal Projectiles-

Officers will carry and deploy only Department issue less-lethal projectiles. In general terms, less-lethal projectiles are launched from two types of firearms:

- Standard shotguns
- Larger caliber launchers.

Shotgun launched less-lethal projectiles-

The Department issues 12 gauge beanbag loads for designated shotguns for deployment as less-lethal projectiles, deployed at a patrol level.

37 mm less-lethal projectiles- The Department may authorize deployment of 37 mm beanbag and baton loads for use in 37 mm launchers as less-lethal projectiles.

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Deployment is on a tactical level with supervisor approval, and only by officers trained to employ the device.

Training-

Officers assigned to less-lethal weapons duty will have weapons available for the specific purpose of launching less-lethal projectiles. The weapons will be assigned at squad or tactical level, and shall not be used for or loaded with lethal rounds. The shotguns designated as less-lethal projectile launchers shall be readily identified as such, to avoid any possible confusion.

Only officers trained in the use of the less-lethal weapons are authorized to use them.

Officers will be trained in and demonstrate knowledge of applicable laws and Department Use of Force Policy when assigned to less-lethal projectile duty.

Officers will receive training in the proper deployment and use of less-lethal projectile weapons prior to being authorized to carry them on duty.

Officers will, at least bi-annually, demonstrate knowledge of the current department use of force policy during annual training, and demonstrate proficiency in the use of less-lethal projectile weapons assigned to them.

Training and demonstrations of proficiency shall be documented in the officer's training file.

An officer failing to demonstrate proficiency shall not be authorized to carry less-lethal projectiles until remedial training has been completed; and current proficiency demonstrated and documented in the officer's training file.

Use of Less-Lethal Weapons-

Less-Lethal weapons are used in situations where a serious physical control or higher level of force is justified, and other means

have not been effective or are not practical.

Less lethal projectiles are directed at large muscle groups or center body mass, to temporarily stun or incapacitate a subject so he may be taken safely into custody, or to persuade the subject to surrender without physical resistance.

Situations justifying the use of a less-lethal weapon may be, but are not limited to:

- As an alternative to the use of deadly physical force if the tactical situation allows for the option.
- To induce a cornered, dangerous suspect into custody without necessitating officers approaching into the danger area.
- To stop the escape of a fleeing fugitive, where pursuit is likely to endanger the officer or others.
- To accomplish a lawful police action in situations where lesser levels of force have been ineffective and a substantial danger exists for the officers if the action is not taken.
- To deter a dangerous or aggressive animal.

Unauthorized Uses-

In any other than the most extreme circumstances, officers should try to avoid deploying less-lethal weapons against:

- Extremely frail or elderly subjects.
- Very young or very small persons.
- Pregnant individuals.
- Injured or sick persons whose injury or sickness may cause them to be more subject to injury.

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- Any person at ranges so close as to be likely to produce a serious or fatal wound.
- Any part of the body reasonably expected to produce a serious injury or lethal wound.

Maintenance-

The same maintenance and inspection standards apply to less-lethal weapons as are applied to other firearms.

Restraints/handcuffs

Use of restraints such as handcuffs, leg irons, flex cuffs, or hobbles constitute a "physical control" level of force. (Refer to S.O.P. 5.01 "Levels of Force")

Department authorized Restraints-

Officers will carry only Department issued or authorized restraints.

Handcuffs- The Department issues handcuffs to officers whose normal duties/assignments may require them to make arrests or supervise arrestees. Officers may carry additional personally owned sets of handcuffs so long as they are of a similar design and quality to those issued.

Other restraints- The Department equips each police vehicle used by officers to make arrests, transport or supervise prisoners, with:

- Leg irons, for the restraint of violent offenders or escape risks.
- Hobbles, for the purpose of preventing a violent prisoner from kicking persons or damaging property.
- Belly chains, for the purpose of further restraining the arms of prisoners that are unusually flexible, violent, or dangerous.

Flex-cuffs- Flex-cuffs may be used by officers as a temporary means to secure

additional suspects. Officers should be aware of the danger of a suspect cutting, burning, or slipping out of flex cuffs and exercise additional caution, checking the flex-cuffs frequently.

Training-

Officers shall train annually during defensive tactics in-service training on the proper use of restraints.

The training shall include instruction in the Department's use of force policy.

The training shall be documented in the officer's training file.

Use of Restraints-

Every person taken into custody shall be handcuffed with his or her hands behind the back, unless such handcuffing is impossible (e.g., an amputee) or impractical. In such an event, an officer shall use appropriate safeguards to secure the person. Additional restraints shall be used, as needed, if the officer reasonably believes they are necessary because:

- The prisoner is violent and constitutes a continuing threat to the officer even though handcuffed.
- The prisoner constitutes an escape risk unless further restrained.
- The prisoner damages or attempts to damage property even though restrained.
- The prisoner acts in a manner likely to injure himself or others.
- The prisoner is accused of crimes of a serious nature meriting additional security.
- The prisoner has a past record of violent behavior or escapes.

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Unauthorized Uses of Restraints-

Restraints shall not be used as punishment, or to humiliate or degrade any person.

Maintenance-

All restraints carried by or in the care of officers shall be maintained in a clean and operational condition.

Knives and Utility Tools (Leatherman Tools)

Officers must have written authorization from the Chief of Police in order to carry a knife or utility tools.

To make such a request, the officer must submit a memo to the Chief of Police requesting authorization to carry the knife, utility or leatherman tool. The request must specify the brand of knife, length of blade, type of knife, and purpose for carrying the knife. Same such request is to be made for utility tools.

Knives must be carried completely concealed, not visible to the public or suspects.

Utility or Leatherman tools can be carried concealed, or within a proper carrier upon the officers duty belt.

The Monmouth Police Department does not train on the use of knives as a force option. Knives may only be used in a force option if deadly physical force is justified, and other options are limited. This same principal is the standard for utility or leatherman tools.

Remedial Training

Officers failing to demonstrate proficiency or qualify with any department issued weapon shall receive remedial training prior to assuming official duties.

Remedial training shall include one on one instruction with a state certified

weapons instructor. It may also require additional training in a classroom setting, on the firearms range, or during a practical/tactical exercise.

Canine Use of Force

Police canines are not normally deployed as a "use of force". When they are utilized as such, they are considered to be a "serious physical control" level of force. (Refer to S.O.P. 5.01, "Use of Force").

Canines as a use of force are located in the Law Enforcement Canine section of this chapter. (Refer to S.O.P. 5.50, "Law Enforcement Canines")

Vehicular Use of Force

Vehicles are not designed as, nor are they normally deployed as a "use of force". When they are utilized as such, vehicular uses of force will be consistent with the "Vehicular Use of Force Continuum" located in Policy 5.15.

Weapon Inspection and Documentation

Every department issued weapon has the potential to be deployed in an emergency situation where the safety of life may be at stake. This aspect elevates the importance of properly functioning equipment. Due to this fact, the Department Range Master, Armorer and supervisor prior to being issued to the officer shall inspect all weapons. This inspection is to ensure the weapons functional readiness. The inspections shall be documented in an equipment report, and placed in the equipment file.

On an annual basis, the equipment supervisor, Range Master and Armorer will inspect all weapons for functional readiness. All inspections will be documented in the equipment report and placed in the equipment file. The

MONMOUTH POLICE DEPARTMENT

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documentation shall serve as a record on each weapon approved by the agency for official use.

Unsafe weapons not passing the inspection shall be removed from service, repaired, and returned to duty when appropriate. All repairs will be documented in the equipment report and placed in the equipment file.

Weapons damaged beyond repair will be removed from service and destroyed. Weapons designated for destruction will be turned over to the property officer and destroyed following proper procedure.

Caution

This directive is for use by the Monmouth Police Department, and does not apply in any criminal or civil proceeding. The department 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 departmental administrative sanctions.

POLICE INCIDENTS INVOLVING DEATH OR LIFE-THREATENING INJURIES

Directive 4.14
Date Revised 02-25-05

Office of Primary Responsibility:

MANAGEMENT RESOURCES SECTION

- I. PURPOSE - The purpose of this policy is to define the responsibilities related to incidents involving life-threatening injuries or the death of another which likely occurred as a result of police activities. Additionally, this procedure is intended to minimize additional trauma to an officer who has been involved in an incident that resulted in life-threatening injuries or death of another.
- II. APPLICATION - The following procedures will apply when:
 - A. An officer discharges a firearm at another person when using or attempting to use deadly physical force against that person, or;
 - B. An incident involves police activity that results in life-threatening injury or the death of another.
- III. PROCEDURES
 - A. Involved-Officer Responsibilities
 1. Immediately notify the police dispatcher of the incident and location.
 2. Do not delay the required notification except:
 - a. To protect others;
 - b. To render first aid;
 - c. To maintain the arrest or prevent the escape of a felon;
 - d. To protect a crime scene;
 - e. When the officer is incapacitated.
 3. Determine the physical condition of any injured person, request necessary emergency medical aid, and render first aid when appropriate.
 4. Secure the scene and preserve evidence.

 5. Remain at the scene (unless injured) until relieved by the on-scene supervisor.

If the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop, i.e., a violent crowd, the ranking officer at the scene shall have the discretion to instruct the officer to go to a more appropriate location.
 6. Protect his/her weapon(s) for examination.
 7. Inform the on-scene supervisor where the incident occurred, where possible

evidence is located, and who the witnesses are.

8. A written report by the officer will not be required. The officer's statement will serve as his report.

B. Communications Center Responsibilities

1. When notified of a police-involved death or life-threatening incident, the police dispatcher will:
 - a. Dispatch a field supervisor as the on-scene supervisor;
 - b. Dispatch necessary patrol units;
 - c. Dispatch medical personnel;
 - d. Notify the Communications Shift Supervisor.
2. The Communications Shift Supervisor will:
 - a. Notify the on-duty Patrol Shift Commander;
 - b. Ensure there is adequate Communications Center staffing;
 - c. Ensure a major incident log is kept.
 - d. Notify the Communications Division Director.

C. On-Scene Supervisor Responsibilities

1. Ensure suitable and adequate personnel and other resources are dispatched, and respond appropriately to the incident scene.
2. Ensure the involved officer(s) is assigned a companion officer(s) at the scene.
3. Assign an officer to transport the involved officer to the station. If the involved officer is transported to the hospital, assign an officer to accompany him/her in addition to the companion officer.
4. Maintain security of the scene until relieved by a CIS supervisor or the investigating agency.
5. Provide investigators the names of witnesses (both officers and civilians) who need to be interviewed.
6. Identify and create a list of officers who need to complete reports detailing their involvement, and ensure the list is submitted to the Shift Commander prior to the end of their shift. The Shift Commander or their designee is responsible for ensuring all reports are submitted and approved prior to involved officers going off shift.

D. Companion Officer's Responsibilities

1. Provide for the involved officer's welfare and safety.

2. Remain with the involved officer until relieved by a Trauma Team member.
3. Transport the involved officer to the police station.
4. Avoid discussing the incident. Communications with the Companion Officer are not privileged and disclosure can be compelled.
5. Take the involved officer to a quiet room and facilitate officer's contact with a department psychologist and/or chaplain.
6. Facilitate the collection of evidence from the involved officer. In most instances do not allow the employee to wash or change clothes or appearance, until after applicable tests are administered and photographs are taken. In the event of exposure to body fluids or other hazards, the officer should be allowed to reduce the potential health risks if the collection of evidence is delayed or if continued exposure increases the health risk.
7. Advise the on-duty Shift Commander of the involved officer's location.

E. Responding Patrol Officer Responsibilities

1. Respond in a safe and appropriate manner.
2. Check on the welfare of the officer and other persons involved in the incident.
3. Provide first aid when appropriate.
4. Secure the scene and preserve the visible evidence.
5. Brief the on-scene supervisor and investigative personnel.
6. Separate witnesses and obtain preliminary information.
7. Assist in crowd and media control.
8. If an officer is assigned to accompany any involved person to the hospital, they shall:
 - a. Write down any statements;
 - b. Secure evidence, i.e., clothing;
 - c. Protect personal property;
 - d. Assume the duties of the transport officer.
9. Document actions in a written report, and obtain report approval, prior to the end of shift.

F. Notification Procedures

1. The on-scene supervisor will brief the on-duty Patrol Shift Commander about the incident. The Shift Commander will notify or ensure notification of the:
 - a. Trauma Team Leader;
 - b. Criminal Investigations Section Commander;
 - c. Public Information Officer;
 - d. Division Commander of the involved employee;
 - e. City Attorney (who will notify the Civil Investigation Team Leader);
 - f. Risk Manager;
 - g. Chief of Police;
 - h. Section Commander of involved employee;
 - i. Internal Affairs sergeant.
 - j. SPEU Representative.

 2. The Criminal Investigations Section commander will notify or ensure notification of the:
 - a. Persons Unit Sergeant;
 - b. Crime Lab;
 - c. State Police;
 - d. State Crime Lab;
 - e. District Attorney;
 - f. Investigations Division Commander;
 - g. Special Operations Section Commander.

 3. The Trauma Team Leader will notify or ensure notification of:
 - a. The Trauma Team Commander;
 - b. The appropriate Trauma Team member(s) who will then respond to provide assistance to the involved employee;
 - c. The department psychologist;
 - d. The department chaplain;
 - e. The person identified on the involved employee(s) Emergency Notification Preference card. This notification is to be done only if the involved officer is incapacitated or otherwise unable to make the notification.

 4. All supervisors will ensure their subordinates are informed of the incident on a timely basis.
-

G Communications

1. All employees will refrain from sending electronic messages about the incident unless needed for tactical reasons.
2. General briefing information will be provided by supervisors. Detailed discussion and conjecture will be avoided until an appropriate time provided by the critique.
3. Public discussion of the incident beyond what has been officially released by the department to the media is not allowed without authorization from the Chief of Police.

4. Involved officers will refrain from discussing details of the incident with other involved officers or potential witnesses until the investigation and subsequent Grand Jury proceedings are complete.

H. Investigative Responsibilities

1. The incident investigation may consist of three separate and parallel investigations: incident investigation, internal investigation, and civil investigation.
 - a. The incident will be investigated by the Oregon State Police or a law enforcement agency selected by the Chief of Police. The Criminal Investigations Section (CIS) will assist as requested by the investigating agency.
 - b. Salem police officers may take possession of involved officer's clothing and weapons. Replacement weapons and issued equipment will be provided.
 - c. The State Crime Lab will process the scene and may be assisted by Salem police personnel.
 - d. The investigating agency and CIS personnel will coordinate retention of all evidence from the incident and will be responsible for its processing, with the exception of evidence collected specifically for an internal investigation.
 - e. The investigating agency will have first access to the involved officer for an interview after the officer has a reasonable opportunity to contact and consult with an attorney.
 - f. Salem police officers may assist the investigating agency by contacting the medical professional on contract to the City and having them respond to the station to obtain blood and urine from the involved officer(s). In the event the medical professional cannot respond, the officer(s) will be taken to Salem Hospital to obtain the blood and urine samples.
 - g. ~~The internal or civil investigators will not be present during the incident investigation interview. In most instances the incident investigators will interview all persons involved before the civil or internal investigators.~~
 - h. A preliminary statement may be taken by investigators. A more detailed statement should be taken within 48 hours.
 - i. The involved officer will be read his/her Miranda Rights at the beginning of the interview by an investigator from the investigation team.
 - j. If the officer invokes his/her rights, the interview will be terminated. The

- investigator will then notify the internal investigator.
- k. Incident investigators will not have access to internal or civil investigator files, and internal and civil investigators will not share information with investigators conducting the incident investigation.
2. The Internal Affairs Unit investigator and other investigators designated by the Chief of Police will be responsible for the internal investigation. The purpose of this investigation is to determine if department policy and procedures were followed during the incident, and to evaluate employee and department performance related to the incident.
- a. The internal investigation team will interview the involved officer after the investigating agency interview. This interview should be delayed until a decision is made by the District Attorney's office about the possibility of criminal prosecution resulting from the investigation of the incident.
 - b. The internal investigator will ascertain from the investigator if Miranda Rights were read and whether they were waived or invoked.
 - c. If Miranda Rights were invoked, the internal investigator will give the involved officer the Garrity Advisement.

IMPORTANT - Never compel an employee to provide information until it has been determined that no criminal prosecution will result from the investigation.

"You have been read your Miranda Rights and have chosen not to speak with an Incident Investigator at this time. I am the Internal Affairs Investigator assigned to this incident, and I wish to advise you that you are being questioned as a part of an official investigation of the Police Department."

"You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges which could result in your dismissal from the Police Department. If you do answer, neither your statement nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges."

- d. Statements taken under Garrity Advisement are for internal investigation purposes only. There will be no information sharing between the internal

investigators, the investigating agency, and civil investigators. Additionally, the investigating agency will not have access to internal investigative files.

- e. If the involved officer refuses to give an internal investigation interview, after the Garrity Advisement, the Chief of Police will be notified immediately.
 - f. An Internal Affairs file will be prepared on the incident.
 - g. The internal investigator will first report their findings to the Chief of Police.
3. The City Attorney will initiate a civil investigation of the incident, using investigators from the Salem Police Department who are detached from routine department duties to work under the direction of the City Attorney (refer to Directive 9.09, Civil Claims Investigations).
- a. Civil investigators are agents of the City Attorney and will not share information with anyone, except as specifically directed by the City Attorney.
 - b. Unless the City Attorney has notified the involved officer(s) to the contrary, statements made by the involved officer(s) to the civil investigators are confidential under the Attorney-Client privilege.

I. Criminal Investigation Section (CIS) Duties

- 1. CIS investigative personnel arriving at an incident scene will:
 - a. Assist with securing the scene;
 - b. Assist State Police investigators with their investigation and interview of potential witnesses as requested.
 - c. Assist State Police investigators, as requested, by securing evidence that will, by its nature, diminish in time. This evidence may include but is not limited to:
 - (1) Blood samples from all involved parties;
 - (2) Urine samples from all involved parties;
 - (3) Photographs of the involved parties as they were dressed during the incident, and;
 - (4) DNA swabbing or similar evidence gathering procedures.
- 2. The Salem Police Lab Technician may:
 - a. Assist with preservation of evidence at the scene;
 - b. Assist in processing the scene and evidence.
 - c. Assist CIS investigators in securing "time-sensitive" evidence.

J. Public Information Officer Duties

1. The Public Information Officer (or designee) will:
 - a. Contact the on-scene supervisor or shift commander for a briefing;
 - b. Prepare an initial press release in cooperation with the investigating officers and District Attorney's Office.
 - c. Ensure that subsequent press releases will be issued by (or at the direction of) the District Attorney's Office.
2. Press releases will follow Directive 7.01, News Media Procedures.

IV. MANDATORY FOLLOW-UP

- A. A department critique of the incident should be initiated as soon as practical after the Grand Jury process is completed. The Management Resources Section Commander will schedule and chair the critique.
 1. The critique is open to any department member, but the following employees are required to attend.
 - a. Directly involved employees
 - b. Patrol Shift Commander
 - c. Patrol on-scene supervisor
 - d. Involved Communications Division personnel
 - e. Trauma Team members assigned to the incident
 2. The following agencies and individuals will also be invited.
 - a. District Attorney's Office
 - b. City Attorney
 - c. Risk Manager
 - d. Department Psychologist
 - e. Police Chaplain
 - f. Investigating Agency
- B. The critique will consider, but will not be limited to the:
 1. ~~Effectiveness of the department's (and its personnel) performance.~~
 2. Use of resources;
 3. Potential problems;
 4. Recommendations for needed changes in department policies or procedures.
 5. Specific training areas identified during the incident which would assist department personnel involved in similar situations in the future.

- C. A Review Board Panel will meet following the critique to discuss the events surrounding the incident. The Review Board Panel will submit their findings to the Chief of Police to ensure executive level review of the incident takes place. Critique and review should occur as soon as possible following Grand Jury proceedings.

The Review Board Panel is designed to critically examine the incident relative to: officer safety disciplines (EVOC, Firearms, Defensive Tactics, ConSims issues, etc.), supervisory input and performance, training needs identified, policy and procedure issues, officer support and trauma team issues, and investigative issues relative to other governmental agencies such as the District Attorney's Office, the City Attorney's Office, Risk Management and the Civil Investigations Team. If circumstances dictate, other issues may also be addressed.

1. The Review Board Panel will consist of:
 - a. A member of each of the survival skill disciplines (Firearms, Defensive Tactics, ConSims, etc.)
 - b. A Deputy Chief or Lieutenant from each police division
 - c. A Risk Management Representative
 - d. A Legal Representative
 - e. A Trauma Team representative
 - f. The Internal Affairs Sergeant
 - g. An SPEU representative
 - h. Whoever is deemed appropriate by the presiding Deputy Chief of Police.
2. The Deputy Chief of the involved officer is responsible for the completion of the Review Board Panel Report. The report will detail any areas of concern generated from the review, training needs identified from the incident, and specific assignments for necessary changes, including the person assigned and a time line.
3. A six-month review of any recommendations made by the Review Board Panel will be conducted by the Deputy Chief of the Support Division to insure recommendations are addressed. In instances where recommendations have not been implemented, a memorandum detailing the reasons why will be included with the original report.
4. Review Board Panel findings are not considered part of the internal investigation and will be filed separately. The Chief's Assistant is designated as the keeper of records for Officer-Involved Shooting Review Panels.

MEMORADUNDUM OF UNDERSTANDING
BETWEEN
LAW ENFORCEMENT AGENCIES IN POLK COUNTY

**Polk County Major Crime Team
Team Activation
Procedural and Operational Guidelines**

Purpose

The purpose of the Memorandum of Understanding is to outline a standard operational procedure for activation and implementation of the Polk County Major Crime Team to conduct specific major criminal investigations.

Definitions

Agency of Primary Responsibility: In all criminal investigations occurring within the city limits of Dallas, Monmouth, and Independence, the respective municipal police department shall be the agency of primary responsibility. In all criminal investigations occurring outside the incorporated city limits of the above referenced participating agencies, within Polk County, the Polk County Sheriff's Office or Oregon State Police will be the agency of primary responsibility.

Major Crime Team Policy & Advisory Board: A Board comprised of the Chief Executive, or designee, from each of the Member Agencies shall be established. The purpose of this board is to establish policies and procedures applicable to the operation of the Polk County Major Crime Team.

Member Agency: Any criminal justice agency that is currently contributing resources to the Major Crimes Team in the form of personnel, financial aid, or materials and equipment.

Team Administrator: An administrator from one of the member agencies, designated by other Board members, whose duties include implementing the directions of the Board and overseeing management of the team.

Team Coordinator: A member from one of the agencies, designated by the Advisory Board, responsible for management of the team, including overall team organization, personnel, equipment, training and operational guidelines, as well as assisting with incident command.

CEO: The Chief Executive Officer, whether Sheriff, Chief, or Station Commander for any law enforcement agency participating as an active member of the Major Crimes Team.

Incident Commander: For the purposes of this agreement, the Incident Commander is assigned by the CEO or designee from the area of jurisdiction, and has overall responsibility for any assigned investigation. Assigns Lead Investigator and provides resources to facilitate the investigation.

Lead Investigator: The Lead Investigator is assigned by the Incident Commander and is responsible for daily investigative actions, including primary investigative incident reports.

Major Crime: For the purposes of this MOU, any crime occurring within a jurisdiction of Polk County, Oregon, which the CEO of the agency of primary responsibility deems to be of actual or potential magnitude that efficient and complete investigation without the assistance of the Major Crimes Team would be likely to cause unnecessary strain on the personnel and equipment resources of said agency.

Authority

The authority for this procedure is a joint agreement by all parties to this philosophy.

Assumptions

Participating agencies will endeavor to assign their most experienced criminal investigators to the Major Crime Team. In the event of an activation of the Major Crime Team, the CEO or designee of each participating agency will make every effort, including consideration to adjusting shifts, to assign one or more of their designated representatives to the Major Crime Team.

Procedural Guidelines

If a crime occurs within a jurisdiction of a member agency, and the CEO, or designee, of the agency of primary jurisdiction determines the circumstances indicate one or more Major Crime Team members are needed to investigate or assist with investigation of the crime, the CEO, or designee, of the agency of primary jurisdiction should be the requesting authority to contact the Team Administrator of the Major Crime Team and request the team be activated. In the event the Team Administrator is not available, the Team Coordinator should be contacted for activation.

Any request for assistance from the Major Crime Team should come as soon as possible after the requesting jurisdiction learns of the crime and determines the need.

The authority contacted for activation of the Major Crime Team shall in all cases get the following information from the requesting authority:

Type of crime, time of the crime and time discovered.
Location or gathering place where the Team is to assemble.

It shall be the responsibility of the Team Administrator, or designee, to notify the CEO's of the other member agencies of the activation.

The Team Administrator of the Major Crime Team shall notify the Team Coordinator who will initiate call out procedures as follows:

Upon notification from the administrator, the Team Coordinator will select and dispatch the number of available investigators, based on the type of response requested and then direct them to respond to a designated location.

Team members called to duty are to be informed to report as quickly as possible, with appropriate equipment and supplies and prepared for an extended time on scene.

The scope of team participation/responsibility in any investigation is at the discretion of the CEO of the agency of primary jurisdiction, in conjunction with the Team Administrator. Ordinarily the team will be assigned to assist the requesting jurisdiction with the investigation, however, in certain cases, primary investigative responsibility may be assigned to the team. In the event of such assignment and whenever practical, the Team Coordinator may assign the agent from the requesting jurisdiction as Lead Investigator.

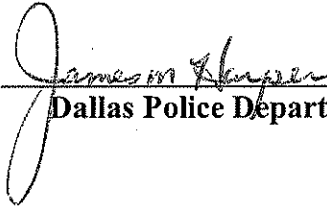
A review process will occur within 72 hours after team activation. The review will include a briefing with the Major Crime Team Policy and Advisory Board to determine whether the team will continue involvement and if so, the extent of involvement. This review will be conducted jointly by the Team Coordinator and the Team Administrator. In the event continued involvement is determined appropriate, subsequent reviews will be scheduled by the Board.

In the event the Team Administrator is not available when the team is activated, any Advisory Board member available shall be contacted to act in the capacity of the Administrative Agent.

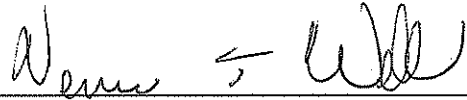
Signature and Acknowledgements

Effective Date of this MOU

July 19, 2007



Dallas Police Department



Independence Police Department

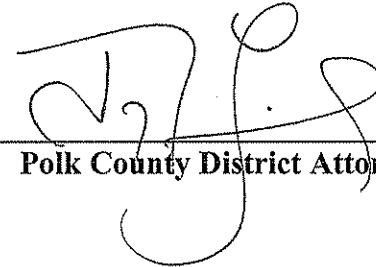


Monmouth Police Department

Oregon State Police



Polk County Sheriff's Office



Polk County District Attorney

