

The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths

Appendix

Police Assessment Resource Center
August 2003

The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths

Appendix

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those individuals within their units who are responsible for authorizing the release of copies, or information from confidential reports.

Members not associated with the investigation and attempting to obtain information or copies, should notify Records of their request, who in turn will contact the appropriate unit for authorization.

Members may receive copies of those reports authored by them without prior approval.

Division/Precinct/Unit Responsibilities (950.00)

A division/precinct/unit receiving confidential reports, or when receiving notification that a report is classified confidential, will ensure that the reports are maintained in such a manner that only members with a need to know have access to the reports.

Destruction of Sensitive Paper (950.00)

RU managers will appoint a supervisor to be responsible for their sensitive paper collection. All sensitive papers will be shredded, bagged and disposed of.

1010.10 DEADLY PHYSICAL FORCE, USE OF, INCLUDING REPORTING REQUIREMENTS

Index: Title; Altered Duty Assignment; Deadly Physical Force Against Members; Firearms Policy; Force, Deadly Physical; Notification Procedures When Deadly Physical Force is Used Against Bureau Members; Reports – Requirements, Use of Deadly Physical Force; Review Board, Firearms Discharge; Shooting at or From Vehicles; Shooting, Cover Fire; Warning Shots; Cover Fire

Refer: ORS 131.005 Probable Cause, defined
ORS 161.015 Deadly Physical Force and Serious Physical Injury, defined
ORS 161.219 & 161.239 Use of Deadly Physical Force
DIR 411.00 Traumatic Incident Consultations
DIR 630.05 Vehicle Pursuits
DIR 631.70 Investigations of Animal Problems
DIR 910.00 Field Reporting Handbook Instructions
Acknowledgment of Order (Detectives)
Supervisors Checklist (Detectives)

POLICY (1010.10)

The use of statutorily defined deadly weapons, barricades and vehicle ramming, constitutes deadly physical force. Also, depending upon how they are used, flashlights, batons, body parts, and other statutorily defined dangerous weapons may

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constitute deadly physical force.

The Bureau recognizes that members may be required to use deadly force when their lives or the life of another is jeopardized by the actions of others. Therefore, state statute and Bureau policy provide for the use of deadly force under the following circumstances:

- a. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury.
- b. A member may use deadly force to effect the capture or prevent the escape of a suspect where the member has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the member or others.
- c. If feasible, some warning has been given.

Members must be mindful of the risks inherent in employing deadly force. A member's reckless or negligent use of deadly force is not justified in this policy or state statute. Members are to be aware that this directive is more restrictive than state statutes.

Other Authorized Uses for Firearms (1010.10)

A member is also authorized to discharge a firearm in the performance of official duty under the following circumstances:

- a. To kill or deter a dangerous animal or to kill an animal so badly injured that it should be destroyed to prevent further suffering.
- b. At a firing range pursuant to all safety rules and regulations.
- c. A member may discharge a firearm in a tactical situation (covering fire) to neutralize the use of deadly physical force.

Shooting At or From Vehicles (1010.10)

A member justified in using deadly physical force may shoot at, or from, a moving vehicle if, in the totality of the situation, the additional risks are clearly outweighed by the need to use deadly physical force.

Warning Shots (1010.10)

Members will not fire warning shots.

PROCEDURES (1010.10)

Directive Specific Definitions

A barricade is the intentional blocking/barricading of a roadway, by any means, to prevent passage of a pursued vehicle (per DIR 630.05).

Covering fire is the authorized discharge of firearms in a tactical situation to neutralize the use of deadly physical force by a suspect or suspects so that police or other persons can maneuver safely.

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Deadly physical force is that physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury (per ORS 161.015(3)).

Police action is any circumstance(s), on or off duty, in which a member exercises official authority.

Probable cause is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it (per ORS 131.005(11)).

Serious physical injury is 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 (per ORS 161.015(8)).

In a walk-through, a detective and the involved member(s) and/or witness member(s) walk through the scene of the incident to determine the positions of individuals, direction of fire, field of fire, number of shots fired, location of physical evidence and possible witnesses.

A witness member is a member who observes, or has firsthand knowledge of, the events surrounding the use of deadly physical force by another member and, other than observing the incident, did not participate in the use of deadly physical force.

A warning shot is the discharge of a firearm intended to disarm and stop a perpetrator in order to control a situation.

Investigations and Reporting (1010.10)

The investigation of a member involved use of deadly physical force requires that complete information be obtained in a timely manner. A thorough investigation into the events surrounding an incident is of critical importance to the involved member(s) and the Bureau. The Bureau also recognizes the impact these traumatic incidents have on its members and acknowledges the need to be sensitive when conducting the required investigation. Recognizing these dual responsibilities, the following procedures serve to meet both goals.

All incidents involving the use of deadly physical force require that the Detective Division (Detectives) or a supervisor respond and assume responsibility. Intentional use of deadly force cases and accidental discharge of firearms cases resulting in injury will be reviewed by the DA.

Duties and Responsibilities when Deadly Physical Force is Used Inside Portland While On or Off Duty during a Police action (1010.10)

When deadly physical force is used on or off duty inside the City, the following procedures will apply.

- a. Use of Deadly Physical Force by a Member
 1. The member will notify an on-duty supervisor of the precinct of occur-

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rence, as well as his/her own supervisor, if assigned to a precinct or division other than the precinct of occurrence. These notifications will take place as soon as possible.

2. The member, unless injured, will remain at the scene until released by an on-scene supervisor. This release must be approved by a detective. The member will not be held at the scene any longer than necessary.
3. In situations requiring Detectives involvement, the member will not drive a vehicle following the incident. An uninvolved member will be assigned to transport each involved member.
4. The member will be provided the time to discuss the incident with his/her immediate supervisor and/or RU manager, union representative, and private attorney. The member will avoid extensive discussion of the incident with anyone involved in the incident prior to being interviewed by a detective or supervisor.
5. After conferring with a Deputy District Attorney (DDA), a detective may require the member, if able, to participate in a walk-through of the scene. A member required to participate in a walk-through will first sign an Acknowledgment of Order form. The member will not be required to participate in a walk-through until after the member has had a chance to discuss the incident with a union representative or private attorney. The member will be accompanied by the member's private attorney and a detective assigned to the investigation. A DDA may also participate in the walk-through.
6. If the detective does not require the member to participate in a walk-through, the member may be offered the opportunity to participate in a voluntary walk-through. The offer to participate in a voluntary walk-through and the response must be documented by the detective. The member will not be asked to participate in a walk-through until after the member has had a chance to discuss the incident with a union representative or private attorney. If the member agrees to participate in the walk-through, the member will be accompanied by the member's private attorney and detective assigned to the investigation. A DDA may also participate in the walk-through.
7. After meeting with a private attorney, the member will be asked to discuss the incident with the detective. Following the discussion, the member will be asked to submit to a tape-recorded interview. As per DIR 910.00, the member will be required to file a report. The member generally will not be ordered to submit to an interview unless the lead detective, the supervisor and the DDA decide it is appropriate on a case-by-case basis.
8. The member will not be released from duty without the approval of the detective in charge of the investigation.

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9. Before being released from duty the member will be provided time to contact the EAP coordinator and/or the responding TIC members.
- b. Witnesses to the Use of Deadly Force
 1. All witness members, unless injured, will remain at the scene until released by an on-scene supervisor. This release must be approved by a detective. The witnesses will not be held at the scene any longer than necessary.
 2. After conferring with a DDA, a detective may require any witness members, if able, to participate in a walk-through of the scene. A member required to participate in a walk-through will first sign an Acknowledgment of Order form. The member will not be asked to participate in a walk-through until after the member has had a chance to discuss the incident with a union representative. The member will be accompanied only by the member's union representative, a DDA, and a detective assigned to the investigation.
 3. All witness members will be required to submit to an interview and/or complete a written report, prior to going off shift. If injured, the witness member will be interviewed when medically stable.
 4. Prior to the interview and walk-through with the detective witness members will not have extensive discussion about the incident with any other person, except their immediate on-scene supervisor and their union representatives. Witness members will be entitled to union representation throughout the course of the investigation.
 - c. Deadly Force Investigations
 1. Non-Injury Accidental Discharge or Animal Destruction
 - a) Immediate supervisors will be responsible for investigating incidents involving the discharge of firearms when:
 - 1) The discharge was accidental and it is determined that no one sustained physical injury.
 - 2) The discharge was accidental and it is determined that only property was damaged.
 - 3) An animal was intentionally destroyed under the guidelines of DIR 631.70.
 - b) This requirement does not prohibit a supervisor from requesting Detectives assistance if the circumstances dictate such involvement.
 - c) Prior to going off duty, the supervisor's investigation into the incident will be documented on an inter-office memorandum and sent through channels to the RU manager. The memorandum will contain:
 - 1) An interview of all involved parties.
 - 2) A sketch of the scene.
 - 3) A description of all weapons involved.

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- 4) If possible, the point of impact of all shots fired.
 - 5) Any resulting damage to property.
 - d) In such cases the supervisor will determine if it is necessary for any weapons to be submitted to the crime lab. If a primary sidearm cannot be returned to a member prior to being released from duty, the member's supervisor will contact Training for a replacement sidearm, that will be provided prior to that member being released from duty.
 - e) In the absence of the member's immediate supervisor, these duties will be fulfilled by a supervisor of the precinct of occurrence.
2. Intentional Use or Injury Situations: Detectives will respond and assume investigative responsibility in incidents involving the intentional use of deadly physical force or when anyone is injured as the result of a member's use of deadly force, including accidental discharge.
- d. Detectives Responsibilities
- 1. Detectives conducting an investigation will be responsible for all investigative duties, including the completion of the Investigation Report, scene sketches, evidence processing and interviews of members and supervisors involved.
 - 2. The report will include detailed information related to any weapons involved; all shots fired and each shot's trajectory and point of impact (if determinable); and any injury to persons or damage to property. When complete, copies of these reports will be sent to the member's RU manager. All weapons, including SERT weapons, involved in a deadly force incident will be taken into custody for submission to the Oregon State Crime Lab (Crime Lab) for appropriate testing. If a primary sidearm cannot be returned to a member prior to being released from duty, a replacement sidearm will be provided prior to that member being released from duty. The investigator or supervisor will contact the Training Division (Training) for a replacement weapon. The investigator will submit all cases involving intentional use of deadly force and accidental discharges with injury to the DA's office for review.
- e. Responsibility Unit (RU) Responsibilities
- 1. Notification Procedures
 - a) The on-scene supervisor of members using deadly force will ensure that the following are notified in all incidents that require Detectives involvement:
 - 1) Detectives
 - 2) The appropriate RU manager
 - 3) Public Information Officer (PIO)
 - 4) EAP Coordinator
 - 5) DA's office

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- 6) Union representation
- b) The RU manager is responsible for the notification of:
 - 1) The appropriate branch manager
 - 2) Chief
 - 3) The commissioner in charge
 - 4) DDA assigned to the Bureau
- 2. Post-Investigation Responsibilities
 - a) After the investigation is completed either by the RU supervisor or Detectives, RU managers will obtain copies of all reports and documents. These items, and a memorandum written by the RU manager discussing the investigation, will be forwarded to the appropriate branch manager. The memorandum will contain the following information:
 - 1) A narrative which briefly and concisely outlines the incident.
 - 2) A conclusion that indicates whether the situation fell within the guidelines of the Bureau's policy and procedures.
 - 3) A critique that describes the manager's opinion as to whether or not the situation was handled properly and, if not, how it could have been handled.
 - 4) Recommendations related to policy, procedure and training.
 - b) Each level of command will review and either concur with the report or make additional recommendations or suggestions.
- f. Branch Manager Responsibilities: The appropriate branch manager will review and forward copies of the reports to the Review Level Committee.
- g. Review Level Committee
 - 1. The Review Level Committee is composed of the following:
 - a) Voting Members
 - 1) All branch managers
 - 2) RU manager of the involved member
 - b) Non-Voting Members
 - 1) Personnel Division (Personnel) manager (will act as facilitator)
 - 2) Internal Affairs Division (IAD) Manager
 - 3) Personnel's Human Resources Analyst
 - 4) A Deputy City Attorney
 - 5) Supervisor(s) or relief manager(s) of involved member(s) - (optional)
 - 2. The branch managers and the RU managers of any involved members, will designate an alternate, if they are unable to attend. The Review Level Committee will meet weekly, unless there are no cases to review or a quorum is not available.
 - 3. The Review Level Committee will review the supervisory recommendation as to whether the use of force was accidental, justified or not justified. The involved member's branch manager will create and forward a

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summary and recommendation report to the Chief. Action to be taken beyond the written report to the Chief will be determined on a case-by-case basis.

4. The written report to the Chief will be limited to a summary and a recommendation of the finding, but the committee will also examine the following factors as they apply to each incident:
 - a) Policy
 - b) Training
 - c) Supervision
 - d) Tactics
 - e) Equipment
- h. Altered Duty Pattern
 1. Immediately following the intentional use of deadly physical force or the use of deadly physical force by a member which results in injury or death of another person or a member, any member who used deadly physical force will be excused from duty with pay for a minimum of three working days. Any witness member who was directly involved will be excused from duty with pay for a minimum of three days upon the member's request or, absent a request, at the discretion of the member's RU manager. Directly involved means those members who were immediately present and in a position to observe the use of the deadly force. Extension of this altered duty period will be at the discretion of the Chief, or his/her designee, based on the recommendation of the RU manager.
 2. As soon as practical after the incident, members on altered duty will consult with a psychiatrist or a psychologist, or members may consult with the Employee Assistance Program (EAP) contracted provider instead. These consultations will be paid by the Bureau. The EAP Coordinator is available to assist with scheduling appointments, answering questions, and dealing with other concerns the member may have. The appropriate branch manager will be notified only that the consultation has occurred. Members on altered duty must complete the required consultations before returning to duty. The confidentiality of privileged communication between patient/client will apply.
 3. If the use of deadly physical force does not result in injury or death to any person, the RU manager of any member directly involved will have discretion to direct that member to an altered duty assignment based on circumstances of the incident. If a member is excused from duty with pay under these circumstances, the required consultation, as described above, applies to that member.
 4. Following any traumatic incident, the RU manager of any member involved will have discretion to direct that member to an altered duty assignment based on circumstances of the incident. If a member is excused

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from duty with pay under these circumstances, the required consultation, as described above, applies to that member.

5. While in an altered duty assignment, members will regularly contact their assigned unit and receive contact from their unit. Upon returning from an altered duty assignment, members will have the opportunity to work with another member, as staffing levels allow (e.g., two-person district patrol).
- i. Deputy City Attorney assigned to the Bureau: The Deputy City Attorney (DCA) assigned to the Bureau will provide assistance as requested by members.
- j. EAP
 1. EAP will provide appropriate assistance to members involved, their families (if such assistance is requested), and command members. The EAP Coordinator will notify the assigned volunteer chaplain and/or a member from the TIC team, who will respond to each incident when a weapon is discharged at a member by a citizen or at a citizen by a member (whether or not any person is struck by a bullet) and any time a member's life is clearly endangered. This action will enable the member to receive timely and appropriate support.
 2. In the event the EAP Coordinator is not available, the assigned volunteer chaplain will notify a TIC team member who will respond. The volunteer chaplain, or member responding, is called to be available for counsel at the involved member's discretion.
 3. The EAP Coordinator, the volunteer chaplain or TIC team member will also discuss with the member involved any professional assistance and counseling that is available.

Duties and Responsibilities when Deadly Physical Force is Used On or Off Duty Outside Portland during a Police action (1010.10)

- a. Members using deadly physical force will:
 1. Notify the jurisdiction of occurrence.
 2. Notify a Bureau on-duty supervisor of the precinct closest in proximity to the situation. This person will ensure that the best-suited supervisor is assigned to perform the follow-up requirements, which include notifications, reporting to the scene, as well as serving as a liaison.
 3. The investigation will be conducted by the jurisdiction of occurrence, unless that jurisdiction requests that the Bureau investigate. If the Bureau is asked to investigate, the conditions listed in "Use of Deadly Force by a Bureau Member" will apply.
- b. The supervisor who is notified will:
 1. Ensure that the notifications listed previously occur.
 2. Report to the scene of the incident if it has occurred in Multnomah, Wash-

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- ington, Clackamas Counties or Clark County, Washington.
3. Act as the Bureau liaison to the investigating agency and ensure that appropriate support is provided to the involved member.
4. Ensure that the other provisions listed in "Use of Deadly Force by a Bureau Member" are met.

Human Relations Factors (1010.10)

In addition to the requirements previously listed, when deadly physical force is directed at a person by a member or by a person at a member, the following guidelines will be adhered to:

- a. RU Guidelines
 1. RU command will ensure that transportation is provided to the member's friends or family, if appropriate.
 2. If the member is admitted to the hospital, the member's immediate supervisor will ensure that a sworn member is placed outside the door of the member, if circumstances so dictate.
- b. Detectives Guidelines: The member will be afforded the time and opportunity to notify family or friends about the incident. If the member is unable to do this, EAP, RU representatives and friends will determine who will assume that responsibility.
- c. EAP Coordinator Guidelines
 1. If the member is unable to notify them, or their family and friends are not available, the EAP Coordinator, or designee, will assume that responsibility.
 2. The EAP Coordinator, or designee, will maintain contact with the friends or family members at the hospital during the initial hospital visit to ensure their questions and concerns are met.
- d. Branch Manager Guidelines
 1. Within the first three days, contact the member to determine if needs are being met.
 2. If after three days of altered duty, or after the grand jury has returned a finding, the member is not comfortable in returning to street duty, they will be:
 - a.) Allowed additional time off, as deemed appropriate.
 - b.) Temporarily assigned to a support position.
 - c.) Assisted in filing service-connected disability forms.

Use of Deadly Force Inside Portland by a Member from Another Jurisdiction (1010.10)

On occasion, members from other jurisdictions take police action within the city limits of Portland. If such police action results in the use of deadly physical force against a person, the Bureau will normally be the investigating agency.

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Detectives will be responsible for the investigation.

The on-scene supervisor will ensure that an on-duty supervisor of the police officer's agency is notified. Unless there is some immediate need to seize weapons, the shooter(s) will be allowed to keep their weapon(s) until their agency supervisor arrives. Upon arrival, the agency supervisor will take custody of the firearm and, if necessary, surrender it to the investigator.

In order to enhance community understanding of situations, the Precinct Commander will be notified so that they may determine the need for community notification and information dissemination.

Notification Procedures when Deadly Physical Force is Used Against Bureau Members (1010.10)

- a. The on-scene supervisor will ensure that the following are notified in all incidents that require Detectives involvement:
 1. Detectives
 2. The appropriate RU manager
 3. PIO
 4. EAP Coordinator
 5. DA's Office
 6. Union representation
- b. The RU manager is responsible for the notification of:
 1. The appropriate branch manager
 2. Chief
 3. The commissioner in charge
 4. DCA assigned to the Bureau
- c. This procedure applies to all incidents occurring both inside and outside the City, whether or not the member is on duty.
- d. If the incident occurs outside Portland while off duty, Detectives will act as the Bureau's liaison with the agency conducting the investigation and will offer investigative assistance.

Supervisors Duties and Responsibilities when Deadly Physical Force is Used by an On or Off Duty Member During a Police action (1010.10)

- a. While enroute, ensure that Detectives are notified that a member-involved use of deadly force has occurred.
- b. Upon arrival at the scene, and as soon as practical and safe after the use of deadly force has occurred, the supervisor will:
 1. Determine the condition of all involved members (including witnesses).
If ambulance transport is required, ensure that an uninvolved member is assigned to accompany the injured member to the hospital (in the ambulance). If an involved member is injured, requires treatment and does not require ambulance transport, an uninvolved member should be assigned

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- to transport the involved member to an appropriate facility.
2. Notify a representative of the appropriate bargaining unit that a member-involved use of deadly force has occurred. Notify the involved members that they have the right to have a union representative present through all stages of this process.
 3. Instruct the involved members and witness members to avoid extensive discussion of the incident among themselves or with any other person, except their immediate on-scene supervisor, union representative and private attorney, prior to being interviewed by a detective.
 4. Examine the weapons of the involved members and witness members before they are released from the scene (refer to "Supervisors Checklist"). The weapons, including SERT weapons, will be later retained by a detective and submitted for processing.
 5. Unless injured, do not release involved members and witness members from the scene without the approval of a detective. Approval may be obtained for members to wait at a nearby site (community contact office, business office, restaurant, precinct, etc.) as an alternative to waiting at the scene. This approval may be obtained by contacting a detective by phone or radio. Members expressing a strong desire to remain at the scene may, if conditions permit, do so until directed otherwise by a detective.
 6. Assign an uninvolved member to drive each involved member. Witness members may drive themselves. Whenever practical each involved member and witness member should be transported in a separate vehicle.
 7. Unless directed otherwise by a detective, upon release from the scene, instruct the involved members, witness members and drivers of the following:
 - a) Proceed to Detectives.
 - b) Involved members and witness members may be allowed to change into civilian clothes before traveling to Detectives.
 - c) Drivers should collect involved members uniform and all outer clothing (including duty belt) and retain as evidence until instructed otherwise by the detective in charge of the investigation. This instruction should be relayed to any uninvolved member that accompanied an injured involved member to the hospital.
 8. Instruct members and witness members to remain at Detectives until instructed otherwise or released from duty with the approval of the detective in charge of the investigation.

Supervisors Checklist (1010.10)

- a. While enroute, ensure Detectives are notified that a member-involved use of deadly force has occurred.

POLICY AND PROCEDURE

- b. Upon arrival at the scene, and as soon as practical and safe after the use of deadly force has occurred, the supervisor will:
1. Determine the condition of all involved members. If ambulance transport is required, ensure that an uninvolved member is assigned to accompany the injured member to the hospital (in the ambulance). If an involved member is injured, requires treatment and does not require ambulance transport, an uninvolved member should be assigned to transport the involved member to an appropriate facility.
 2. Notify the appropriate bargaining unit. Notify the involved members that they have the right to have a union representative present through all stages of this process.
 3. Instruct the involved members and witness members to avoid extensive discussion of the incident among themselves or with any other person, except their immediate on-scene supervisor, union representative and private attorney, prior to being interviewed by a detective.
 4. Examine the weapons of the involved members and witness members (see "Weapon Examination" for instructions).
 5. Unless injured, do not release involved members and witness members from the scene without the approval of a detective. Approval may be obtained for members to wait at a nearby site (community contact office, business office, restaurant, precinct, etc.) as an alternative to waiting at the scene. This approval may be obtained by contacting a detective by phone or radio. Members expressing a strong desire to remain at the scene may, if conditions permit, do so until directed otherwise by a detective.
 6. Assign an uninvolved member to drive each involved member. Witness members may drive themselves. Whenever practical each involved member and witness member should be transported in a separate vehicle.
 7. Unless directed otherwise by a detective, upon release from the scene, instruct the involved members, witness members and drivers of the following:
 - a) Proceed to Detectives.
 - b) Involved members and witness members may be allowed to change into civilian clothes before traveling to Detectives.
 - c) Drivers should collect involved members uniform and all outer clothing (including duty belt) and retain as evidence until instructed otherwise by the detective in charge of the investigation. This instruction should be relayed to any uninvolved member that accompanied an injured involved member to the hospital.
 8. Instruct members and witness members to remain at Detectives until instructed otherwise or released from duty with the approval of the detective in charge of the investigation.

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c. Weapon Examination

1. Primary Duty Weapon

a) Personally inspect the weapon and count the number of rounds remaining in the weapon and the number of rounds in all magazines and/or ammo pouches. Return the weapon and all ammunition to the member.

b) Revolvers: Note the position of any live rounds in the cylinder.

2. Secondary Duty Weapon: Same as primary duty weapon.

3. All other weapons used in a deadly force incident: Take personal control of the weapon and maintain it in the condition in which it was found until it is turned over to a detective.

4. Documentation: Document all of the above actions in a Special Report.

1010.20 PHYSICAL FORCE, USE OF

Index: Title

Refer: ORS 161.205 Physical Injury, defined

ORS 161.205 – 161.265 Use of Physical Force

POLICY (1010.20)

Per ORS, the Bureau authorizes its members to use physical force in a police action when and to the extent it is reasonably necessary to accomplish some official purpose. The amount of physical force authorized may vary in degree and shall only be the amount of force that is reasonably necessary, depending on the circumstances of each situation taken as a whole, to accomplish the official purpose. Use of excessive physical force in any situation is prohibited.

PROCEDURES (1010.20)

Directive Specific Definitions

Excessive physical force is any physical force used during a police action which is greater than that which is reasonable under the circumstances presented by each situation.

Official purpose is any purpose, undertaken in a police action, which is authorized by official orders, the Manual of Policy and Procedure, by law or by judicial decree.

Police action is any circumstance, on or off duty, during which a member exercises or attempts to exercise official authority.

Physical injury is as defined in ORS 161.005 (6), the impairment of physical condition or substantial pain.

Physical force is that force which is directed against a person and is readily capable of causing injury. Such force may be applied through the use of a person's body, weapons, equipment, and/or instruments.



BUREAU OF POLICE
GENERAL ORDER
 PORTLAND, OREGON



"DO NOT REMOVE
 FROM HISTORICAL FILE"

Published Date: September 13, 1993

SECTION NO.: 1010.10

**SUBJECT: USE OF DEADLY PHYSICAL FORCE,
 INCLUDING REPORTING REQUIREMENTS**

Revision No. 7

INDEX: Title; Firearms, Discharge Review; Firearms Policy; Force, Deadly Physical; Reports - Requirements, Use of Deadly Physical; Review Board, Firearms Discharge; Shooting, Cover Fire; Warning Shots; Shooting at or from Vehicles; Altered Duty Assignment; Notification Procedures when Deadly Physical Force is Used Against Bureau Members; Deadly Physical Force Against Members

REFER: *Appendix A: Duties And Responsibilities When Deadly Physical Force Is Used Inside Portland While On Or Off Duty During A Police Action*

Appendix B: Duties and Responsibilities When Deadly Physical Force Is Used While On Or Off Duty Outside Portland During A Police Action

Appendix C: Human Relations Factors

Appendix E: Notification Procedure When Deadly Physical Force is Used Against Bureau Members

Appendix D: Use Of Deadly Force Inside Portland By A Member From Another Jurisdiction

G.O. 630.10 - Driving Responses Defined

G.O. 631.70 - Investigations of Animal Problems

G.O. 910.00 - Field Reporting Handbook Instructions

ORS 161.219 and 161.239 - Use of Deadly Physical Force

ORS 161.015 (3) - Deadly Physical Force

ORS 161.015 (7) - Serious Physical Injury

Unless problems are identified, this order will become effective on October 13, 1993.

ATTENTION: *Bold, italicized print indicates revisions from the last publication dated January 30, 1990.*

DEFINITIONS

Barricade: *Per G.O. 630.10, Driving Responses, the intentional blocking of a roadway, by any means, to stop a vehicle being pursued.*

Covering Fire: The authorized discharge of firearms in a tactical situation to neutralize the use of deadly physical force by a suspect or suspects so that police or other persons can maneuver safely.

Deadly Physical Force, ORS 161.015 (3): *Physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.*

**Use of Deadly Physical Force
Including Reporting Requirements**

Police Action: Any circumstance(s), on or off duty, in which a sworn member of the Bureau exercises or attempts to exercise official authority.

Probable Cause: ORS 131.005(11): A substantial objective basis for believing that, more likely than not, an offense has been committed and a person to be arrested has committed it.

Reason to Believe: Refer to ORS 131.605(4) "Reasonably Suspects": Holding a belief that is reasonable under the totality of the circumstances existing at the time and place a police member acts.

Serious Physical Injury, ORS 161.015 (7): 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.

Warning Shot: The discharge of a firearm intended to disarm and stop a perpetrator in order to control a situation.

POLICY

The use of statutorily defined deadly weapons, *barricades (as defined in G.O. 630.10)* and vehicle ramming, constitutes deadly physical force. Also, depending upon how they are used, flashlights, batons, body parts, and other statutorily defined dangerous weapons may constitute deadly physical force.

The Bureau recognizes that members may be required to use deadly force when their life or the life of another is jeopardized by the actions of others. Therefore, State statute and Bureau policy provide for the use of deadly force under the following circumstances:

1. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or *serious physical injury*.
2. A member may use deadly force to effect the capture or prevent the escape of a suspect where the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.
3. And, if feasible, some warning has been given.

Members must be mindful of the risks inherent in employing deadly force.

A member's reckless or negligent use of deadly force is not justified in this policy or State statute.

Members are to be aware that the General Order is more restrictive than State statutes.

OTHER AUTHORIZED USES FOR FIREARMS

A member is also authorized to discharge a firearm in the performance of official duty under the following circumstances:

**Use of Deadly Physical Force
Including Reporting Requirements**

1
2 Animals: To kill or deter a dangerous animal or to kill an animal so badly injured that it
3 should be destroyed to prevent further suffering.

4 Firing Range: At a firing range pursuant to all safety rules and regulations.

5
6 Covering Fire: A member may discharge a firearm in a tactical situation to neutralize the
7 use of deadly physical force.

8
9 **SHOOTING AT OR FROM VEHICLES**

10
11 A member justified in using deadly physical force may shoot at, or from, a moving vehicle if,
12 in the totality of the situation, the additional risks are clearly outweighed by the need to use
13 deadly physical force.

14
15 **WARNING SHOTS**

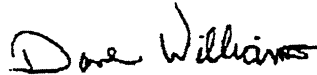
16
17 Members will not fire warning shots.

18
19 **PROCEDURES**

20
21 **INVESTIGATIONS AND REPORTING**

22
23 All incidents involving the use of deadly physical force require that either the Detective
24 Division or a supervisor respond and assume responsibility. Investigation and reporting
25 responsibilities are presented in the appendices to this order. *Intentional use of deadly
26 force cases and accidental discharge of firearms cases resulting in injury will be
27 reviewed by the District Attorney's Office.*

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29 CHARLES A. MOOSE

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34 DAVE WILLIAMS
35 Assistant Chief of Police

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37 DW:DS/bd
38 ORIGINATOR: Chief's Office
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**DUTIES AND RESPONSIBILITIES WHEN DEADLY PHYSICAL FORCE
IS USED INSIDE PORTLAND WHILE ON OR OFF DUTY
DURING A POLICE ACTION**

When deadly physical force is used on or off duty inside the City of Portland, the following procedures will apply:

USE OF DEADLY PHYSICAL FORCE BY A BUREAU MEMBER

Other than intentional firing at an approved range, members discharging firearms or using other deadly force as defined in this order will:

1. Notify an on-duty supervisor of the precinct of occurrence, as well as their own supervisor, if they are assigned to a precinct or division other than the precinct of occurrence. These notifications will take place as soon as possible.
2. Other than as described in Section 4, members will avoid extensive discussion of the incident with anyone involved in the incident prior to being interviewed by the detectives or supervisor.
3. In situations requiring Detective Division involvement, the involved member(s) will not drive vehicles following the incident. A Bureau member will drive them to the Detective Division.
4. During the investigation the member(s) will be provided the time to discuss the incident with their immediate supervisor(s) or Commander, Chaplain, TIC Team members, union representative, and a private attorney. The member(s) will then be asked to discuss the incident with the detectives. Following the discussion, the member(s) will be asked to submit to a tape-recorded interview. As per General Order 910.00, involved members will be required to file a report.

WITNESSES TO THE USE OF DEADLY FORCE

All Bureau members considered to be witnesses will be required to submit to an interview or complete a written report.

NONINJURY AND/OR PROPERTY DAMAGE SITUATIONS

Immediate supervisors will be responsible for investigating incidents involving the accidental discharge of firearms when:

1. It is determined that no one sustained physical injury;
2. When it is determined that ONLY property was damaged; or,
3. When an animal is intentionally destroyed under the guidelines of G.O. 631.70.

This requirement does not prohibit a supervisor from requesting Detective Division assistance if the circumstances dictate such involvement.

Prior to going off duty, the supervisor's investigation into the incident will be documented on an interoffice memorandum and sent through channels to the RU Commander. The memorandum will contain:

1. *An interview of all involved parties;*
2. *A sketch of the scene;*
3. *The weapon(s) involved;*
4. *If possible, the point of impact of all shots fired; and,*
5. *Any resulting damage to property.*

In such cases the supervisor will determine if it is necessary for the weapon(s) to be submitted to the Crime Lab.

In the absence of the member's immediate supervisor, these duties will be fulfilled by a supervisor of the precinct of occurrence.

INJURY AND INTENTIONAL USE OF DEADLY FORCE SITUATIONS

The Detective Division will respond and assume investigative responsibility in incidents involving the use of deadly physical force in a police action or when anyone is injured as the result of a member's use of deadly force and when a member intentionally attempted to use deadly force against a person but no injury was sustained.

If the member's service weapon was used, the placement of rotation of the live and expended rounds will be noted/diagrammed (including type of ammunition) by the supervisor or designee. The weapon will be later retained by the supervisor or investigator and submitted for processing. Bureau-owned weapons (shotguns and SERT weapons) will be retained by the supervisor or investigator and submitted for processing.

The investigator or supervisor will obtain a replacement weapon for the member from the Training Division before the member is relieved from duty.

DETECTIVE DIVISION RESPONSIBILITIES

Detectives conducting an investigation will be responsible for all investigative duties, including the completion of the Incident Report, scene sketches, evidence processing, and interviews of the member(s) and supervisors involved.

The report will include detailed information related to the weapon(s) involved; all shots fired and each shot's trajectory and point of impact (if determinable); and any injury to persons or damage to property. When complete, copies of these reports will be sent to the member's RU Commander.

All weapons involved in an incident resulting in injury or death will be taken into custody for submission to the Oregon State Police Crime Lab for appropriate testing. If the weapon cannot be returned to the member prior to the end of the interview, a replacement weapon will be provided prior to the member being relieved of duty. The investigator or supervisor will contact the Training Division for a replacement weapon. The investigator will submit all cases involving intentional use of deadly force and accidental discharges with injury to the District Attorney's Office for review.

RESPONSIBILITY UNIT

Notification Procedures

The on-scene supervisor of members using deadly force will ensure that the following Bureau personnel are notified in all incidents that require Detective Division involvement:

1. The appropriate RU Commander
2. Public Information Officer
3. Chaplin
4. District Attorney's Office
5. Union representation

The RU Commander is responsible for the notification of:

1. The appropriate Deputy Chief
2. Assistant Chief
3. Chief
4. The Commissioner in charge
5. Deputy City Attorney assigned to the Police Bureau

Post Investigation Responsibilities

After the investigation is completed either by the RU supervisor or the Detective Division, RU Commanders will obtain copies of all reports and documents. These items, and a memorandum written by the RU Commander discussing the investigation, will be forwarded to the Branch Deputy Chief. The memorandum will contain the following information:

1. A narrative which briefly and concisely outlines the incident.
2. A conclusion which indicates whether the situation fell within the guidelines of the Bureau's policy and procedures.
3. A critique which describes the commander's opinion as to whether or not the situation was handled properly and, if not, how it could have been handled.
4. Recommendations related to policy, procedure and training.

Each level command will review and either concur with the report or make additional recommendations or suggestions.

BRANCH DEPUTY CHIEF

The appropriate Branch Deputy Chief will review and forward copies of the reports to the Chief's Office Review Level Committee (comprised of the three Branch Deputy Chiefs, the Assistant Chief, and the RU Commander of the involved member(s)).

CHIEF'S OFFICE REVIEW LEVEL COMMITTEE

The Review Level Committee will review the supervisory recommendations as to whether the use of force was accidental, justified or not justified. The involved member's Deputy Chief will create and forward a summary and recommendation report to the Assistant Chief of Police. *The Assistant Chief will forward the report to the Chief.* Action to be taken beyond the written report to the Chief will be determined on a case-by-case basis.

The written report to the Chief will be limited to a summary and a recommendation of the finding, but the committee will also examine the following factors as they apply to each incident:

1. Policy
2. Training
3. Supervision
4. Tactics
5. Equipment

ALTERED DUTY PATTERN

Immediately following the use of deadly physical force by a member or members of the Bureau which results in injury or death of another person or an officer, the member(s) directly involved will be excused from duty with pay for a minimum of three working days. Directly involved means those personnel who used deadly physical force or who were immediately present AND IN A POSITION TO OBSERVE THE USE OF the deadly force. Extension of this period shall be at the discretion of the Chief, or the Chief's designee, based on the recommendation of the RU manager.

During that period, the involved member(s) will consult with a psychologist or psychiatrist. The Chaplain's Office is available to assist in the selection of the psychologist/psychiatrist. The appropriate Branch Deputy Chief will be notified only that the consultation has occurred. The confidentiality of privileged communication between doctor/Chaplain and patient/client will apply.

If the use of deadly physical force does not result in injury or death to any person, the commanding officer of the member(s) directly involved shall have discretion to direct the member(s) to an altered duty assignment based on circumstances of the incident. If a member is excused from duty with pay under these circumstances, the required consultation, as described above, applies to the member.

An altered duty assignment with the same requirements as the use of deadly force may be utilized by a manager if, in the manager's judgement, a member has a need for the assignment following any traumatic incident.

While in an altered duty assignment, members will regularly contact their assigned unit and receive contact from their unit. Upon returning from an altered duty assignment, member(s) will have the opportunity to work with another member, as staffing levels allow (e.g., two-person district patrol.)

DEPUTY CITY ATTORNEY ASSIGNED TO THE POLICE BUREAU

The Deputy City Attorney assigned to the Police Bureau will provide assistance as requested by Bureau personnel.

CHAPLAIN'S OFFICE

The Chaplain's Office will provide appropriate assistance to the personnel involved, their families (if such assistance is requested), and command personnel. Either the Chaplain or a member selected from the list maintained by the Chaplain's Office of those involved in similar police actions will respond to each incident *when a weapon is discharged at a member by a citizen or at a citizen by a member (whether or not any person is struck by a bullet) and any time a member's life is clearly endangered. This action will enable the Chaplain's Office to assess the likelihood of post traumatic stress affecting the member and the importance of initiating appropriate support.*

If the Chaplain is not available to respond, the *assigned Volunteer Chaplain will notify a TIC Team member who will respond.* The Chaplain, or member responding, is called to be available for counsel at the involved member's discretion.

The Chaplain or TIC Team member will *also* discuss with the member(s) involved any professional assistance and counseling that is available.

**DUTIES AND RESPONSIBILITIES WHEN
DEADLY PHYSICAL FORCE IS USED ON OR OFF DUTY
OUTSIDE PORTLAND DURING A POLICE ACTION**

Members using deadly physical force will:

- 1. Notify the jurisdiction of occurrence.**
- 2. NOTIFY A PORTLAND POLICE BUREAU ON-DUTY SUPERVISOR OF THE PRECINCT CLOSEST IN PROXIMITY TO THE SITUATION. THIS PERSON WILL ENSURE THAT THE BEST-SUITED SUPERVISOR IS ASSIGNED TO FOLLOW APPENDIX A REQUIREMENTS, WHICH INCLUDE NOTIFICATIONS, REPORTING TO THE SCENE, AS WELL AS SERVING AS A LIAISON.**
- 3. The investigation will be conducted by the jurisdiction of occurrence, unless that jurisdiction requests that the Portland Police Bureau investigate. If the Portland Police Bureau is asked to investigate, the conditions in Appendix A will apply.**

The Portland Police Bureau supervisor who is notified will:

- 1. Assure that the notifications in Appendix A occur.**
- 2. Report to the scene of the incident if it has occurred in Multnomah, Washington, Clackamas Counties or Clark County, Washington.**
- 3. The supervisor will act as the Bureau liaison to the investigating agency and will assure that appropriate support is provided to the involved member.**
- 4. Ensure that the other provisions of Appendix A are met.**

HUMAN RELATIONS FACTORS

In addition to the requirements of Appendix A, when deadly physical force is directed at a person by a member of the Bureau or by a person at a member of the Bureau, the following guidelines will be adhered to:

RU GUIDELINES:

1. *RU Command will insure that transportation is provided to the member's friends or family, if appropriate.*
2. *If the member is admitted to the hospital, the member's immediate supervisor will insure that a police member is placed outside the door of the member, if circumstances dictate such.*

DETECTIVES GUIDELINES:

The member will be afforded the time and opportunity to notify friends or family about the incident. If the member is unable to do this, the Chaplain's Office, RU REPRESENTATIVES AND FRIENDS WILL DETERMINE WHO will assume that responsibility.

CHAPLAIN GUIDELINES:

1. *If the member is unable to notify family and friends are not available, the Chaplain's Office will assume that responsibility.*
2. *The Chaplain, or designate, will maintain contact with the friend or family members at the hospital during the initial visit at the hospital to insure that their questions and concerns are met.*

BRANCH DC GUIDELINES:

1. *Within the first three days, contact the member to determine if needs are being met.*
2. *If after three days of altered duty, or after the grand jury has returned a finding, the member is not comfortable in returning to street duty, they will be:*
 - a. *allowed additional time off, as deemed appropriate*
 - b. *temporarily assigned to a support position*
 - c. *assisted in filing service-connected disability forms*

**"DO NOT REMOVE
FROM HISTORICAL FILE"**

**APPENDIX D
G.O. 1010.10
9/93**

**USE OF DEADLY FORCE INSIDE PORTLAND
BY A MEMBER FROM ANOTHER JURISDICTION**

On occasion, members from other jurisdictions take police action within the city limits of Portland. If such police action should result in the use of deadly physical force against a person, the Portland Police Bureau will normally be the investigating agency. The Detective Division will be responsible for the investigation.

The on-scene supervisor will assure that an on-duty supervisor of the police member's agency is notified. Unless there is some immediate need to seize weapons, the shooter(s) will be allowed to keep their weapon(s) until their agency supervisor arrives. Upon arrival, the agency supervisor will seize the firearm and, if necessary, surrender it to the investigator.

In order to enhance community understanding of situations and reduce fear, the Precinct Commander will be notified so that they may determine the need for community notification and information dissemination.

***NOTIFICATION PROCEDURES WHEN DEADLY PHYSICAL
FORCE IS USED AGAINST BUREAU MEMBERS***

Notification Procedures:

The on-scene supervisor of members using deadly force will ensure that the following Bureau personnel are notified in all incidents that require Detective Division involvement:

1. The appropriate RU Commander
2. Public Information Officer
3. Chaplin
4. District Attorney's Office
5. Union representation

The RU Commander is responsible for the notification of:

1. The appropriate Deputy Chief
2. Assistant Chief
3. Chief
4. The Commissioner in charge
5. Deputy City Attorney assigned to the Police Bureau

This procedure applies to all incidents occurring both inside and outside the City, whether or not the member is on duty.

If the incident occurs outside Portland while off duty, the Detective Division will act as the Bureau's liaison with the agency conducting the investigation and will offer investigative assistance.

PORTLAND POLICE BUREAU, HOMICIDE DETAIL INTERVIEW CHECKLIST:
OFFICER-INVOLVED SHOOTINGS

CONDUCTING INTERVIEW OF THE INVOLVED OFFICER(S)

- 1. Involved officer(s) will be asked to submit to a tape recorded interview. If possible, all interviews should be tape recorded.
- 2. Interviews will be held at comfortable, appropriate locations. Do not use interview rooms that are normally used for suspect interviews.
- 3. Interview:
 - a. How was the call obtained or how did the incident begin. Include information about interviews with victims and witnesses, teletypes, roll call information, and information obtained from other sources.
 - b. Vantage points, observations, perceptions.
 - (1) If useful, have the officer utilize or draw a diagram to show the relative positions of participants, cover, evidence, etc.
 - c. Weapons involved:
 - (1) Describe the make, caliber, and number of rounds normally carried. Establish that the weapon carried was Bureau approved and if there were any modifications.
 - (2) Describe other weapons and tactics, if applicable.
 - (3) Document the number of shots fired and the distances the officer thinks were involved.
 - (4) Describe the backdrop. What was in the field of fire when the officer fired.
 - (5) Describe the possible points of impact.
 - d. Mental state of the officer at the time of the incident.
 - (1) How the officer felt and description of perceptions at the time of the incident.
 - (2) Describe, in depth, what lead to the decision to use deadly force.
 - (3) Describe any previous high stress incidents and what effect, if any, these had on the officer.
 - e. Force continuum.
 - (1) Were there any other options available short of the use of deadly force. Describe use of force continuum applied during the incident.

- f. Document the actions taken after the shooting / use of deadly force.
(Handcuffing, medical attention, taking cover, radio broadcasts, etc.)

- g. Prior experience and training.
 - (1) Describe any experiences prior to the law enforcement career which may have relevance to the current assignment or incident.
 - (2) Cover the officer's total law enforcement experience and assignments.
 - (3) Describe any previous experiences similar to the current incident.
 - (4) Document specific training classes that the officer has taken that are applicable to the incident. (Officer survival seminars, edged weapons classes, etc.)

- h. Current shift assignment and work hours.
 - (1) Document the officers regular work pattern. (Shift, hours, days off, etc)
 - (2) Describe any deviation in the work pattern such as sick time, vacation or training.
 - (3) Document the hours of sleep prior to the incident.
 - (4) Establish whether or not the officer had used alcohol or medications prior to or during the shift. If yes, did it affect judgement or ability to perform duties.

CISD Outline (Mitchell Model)

I. Introduction

Objective:

To introduce everyone present and explain the process and set expectations and ground rules

Common Ground Rules:

Minimize interruptions (pagers, phones and leaving the room)

Confidentiality

No rank during CISD

All participation is voluntary

II. Fact Phase

Objective:

To allow participants to describe what their role was in the traumatic event. What did they do, see, and hear.

Prompts:

Play BOEC tape.

What did you see or do?

How did you hear about it?

III. Thought Phase

Objective:

What thoughts the participant had during the event.

Prompts:

What were your first thoughts or immediate concerns?

IV. Reaction Phase

Objective:

Identify the most traumatic aspect of the crisis for the participants.

Prompts:

What part of this event bothers you the most?

What stands out as the most memorable moment?

If you could erase one part without changing the outcome, which would it be?

V. Symptom Phase

Objective:

Identify symptoms of distress, physical and psychological, the participants have experienced as a result of the incident.

Prompts:

Give examples of psychological, physical, emotional and behavioral changes.

What symptoms did you experience immediately after the event?

What symptoms did you experience during the first few days after the incident?

What symptoms are you still experiencing?

VI. Teaching Phase

Objective:

Normalizing the crisis reactions of the participants and teach basic personal stress management and coping techniques.

Prompts:

List signs and symptoms that may arise.

Pass out teaching or informational material.

VII. Re-Entry

Objective:

Summarize the CISD process, answer any questions, and eat pizza!

Helpful Tips

- Remember this is their CISD, not yours.
- Think about incorporating the radio tape at the beginning of the CISD.
- If you use the radio tape, give the primary participants an opportunity to review it just prior to the CISD.
- Try having the first officer on scene of the event talk first during the fact phase. Discuss his role before the CISD starts.
- Don't get stuck on following every aspect of the CISD outline. Often the Thought, Reaction, and Symptom phases run together.
- Encourage participation, but make it clear that anyone present can choose to be silent.
- Be available afterwards for follow-up discussions. Often participants want to talk after the CISD, sometimes one on one.
- Be prepared to make referrals.
- Include family members in each phase of the CISD.

- Most officers experience multiple traumatic events during their career and they often talk about those other incidents during a CISD.

CRITICAL INCIDENT MANAGEMENT

CONTAIN and ISOLATE the THREAT PHYSICALLY and PSYCHOLOGICALLY

A. INNER PERIMETERS:

Cover and Concealment	Tailored to Threat
Know Locations of Officers	Designate Arrest Team/Shooters
Roll Call on Shots Fired	Show of Force to Force Negotiations

B. GATHER INTELLIGENCE:

Radio Information	First Arriving Officers
Witness Information	Criminal history, Parole/Probation, Neighbors, Etc.
Attempt to Corner Suspect	Constantly Evaluate the THREAT

C. OUTER PERIMETER:

Tailored to Threat	Block Traffic and Pedestrians
Make it LARGE	Use Police Tape
Set up Emergency Vehicle Corridors, Keep them Clear	

D. COMMAND POST:

Two Phone Lines Minimum	Fire Stations, Schools, Churches
Recorder/Log keeper	TV, Kitchen, Bathroom, Parking
Out of Line of Sight of Threat	No Walking Command Posts

E. EVACUATION:

Flag Contacted Building with Police Tape
Leave Doors Unlocked or SERT/SWAT will force anyway
Get Phone Numbers of Where Evacuees will be
Safe Route Out or Don't Evacuate
Bus/Red Cross

F. STAGING AREA

EMS/Fire/Reserves	PIO/Media
Mobilized Officers	Outside agencies
Relieved Officers Report Back to	Life Flight Helo L.Z.
Make sure O.P. know SAFE route to Staging Area	

DELEGATE A TEAM LEADER FOR EACH ABOVE FUNCTION.

CONTAIN - CONTAIN - CONTAIN

OREGON REVISED STATUTES

TITLE 16. CRIMES AND PUNISHMENTS

CHAPTER 161. GENERAL PROVISIONS

JUSTIFICATION

ORS § 161.239 (2001)

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.

HISTORY: 1971 c.743 § 28

12.550 DISCHARGING OF FIREARMS BY POLICE PERSONNEL**Reference:**

Manual of Rules and Regulations - 1.23, 1.24, 1.25
Ohio Revised Code Section 2901.01
Procedure 12.545 - Use of Force
Procedure 19.105 - Sick/Injured With Pay & Special Leaves
Tennessee vs. Garner, 471 US 1 (1985)
Standards Manual - 1.3.2, 1.3.3, 1.3.6, 1.3.7

Policy:

The most serious act in which a police officer can engage is the use of deadly force. The authority to carry and use firearms in the course of public service also carries with it the highest level of responsibility. Respect for human life requires that police officers exhaust all other reasonable means before resorting to the use of firearms and then only when an officer reasonably believes that such use of firearms is necessary to protect the officer or another from the risk of serious physical harm or loss of life.

In considering the use of firearms, understand that you are responsible for your acts and that you may be required to justify your acts in a court of law. The Hamilton County Prosecutor's Office will determine the legality of actions taken. You are not required to retreat in lieu of the justifiable use of deadly physical force.

The safety of innocent persons is of paramount importance. Where there is substantial risk to the safety or life of an innocent citizen, the safety of the citizen should take precedence over the apprehension of the suspect.

Police officers may not use deadly force merely to prevent escape in misdemeanor cases. The use of deadly force to prevent escape of felony suspects is constitutionally unreasonable except where the escape presents an immediate risk of death or serious physical harm to another.

Where the suspect poses no immediate threat of death or serious physical harm to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so. If an officer uses unnecessary and/or excessive force, or acts wantonly and maliciously, he could be found guilty of assault, even of culpable homicide if he kills the person he is attempting to arrest.

At such time as a police officer perceives what he interprets to be a threat of loss of life or serious physical harm to himself or others at the hands of another, he has the authority to display a firearm, with finger outside the trigger guard and have it ready for self-defense. The finger is only to be placed on the trigger when on target and ready to engage a threat.

Self-Defense: A police officer is authorized to use that force reasonably necessary to protect himself or others from death or serious physical harm at the hands of another.

- There must be an apprehension of real or immediate danger based on an overt and/or constructive act by another.

Warning Shots: Officers should only use warning shots if convinced a warning shot will possibly save a life or alleviate the need of taking a life. As with any shot an officer fires, the officer must know it will not endanger innocent bystanders. Supervisors should report and investigate warning shots as outlined in Section A.

Felonies: When all other reasonable means at the officer's disposal have failed, the use of firearms is authorized, only under the following circumstances, as a last resort to apprehend a fleeing felon:

- The officer has probable cause to believe the suspect has committed or is committing a felony, and
- The suspect presents an immediate risk of death or serious physical harm, either to the officer or another person if not immediately apprehended.
 - If possible, the officer will give verbal warning before using the firearm.
 - By itself, notification by Police Communications Section (PCS) resulting from a general information broadcast or computer query that a subject is wanted will not provide authority for the police officer to use a firearm.

All Other Felonies and Misdemeanors: In all other felonies or misdemeanors, police personnel will not fire shots even if the perpetrator attempts or succeeds in his attempt to flee.

Juveniles: A police officer will not discharge a firearm at a person known to be or suspected of being a juvenile (person less than 18 years of age) except under circumstances which come within the provisions of the self-defense policy.

Moving Vehicles: Officers shall not discharge their firearms at a moving vehicle or its occupants unless the occupants are using deadly physical force against the officer or another person present, by means other than the vehicle.

Shots Fired at Animals: An officer will use firearms only as a last resort or for protection of himself or others. Often, firing a shot at an animal will create a more dangerous situation than the animal itself. If possible, use one of the following alternative solutions:

- Call the Society for the Prevention of Cruelty to Animals (SPCA). This organization has equipment to handle most animals safely.
- In some instances, Cincinnati Zoological Society personnel will respond upon request.
- The use of department issued chemical irritant is effective on many animals.

Information:

The Police Chief has authorized a comprehensive review of critical firearm discharges by Department employees. A Critical Firearm discharge is defined as:

All shots fired by Department employees with the exception of:

- a) Beanbag Rounds
- b) Forty-millimeter foam rounds
- c) At Animals
- d) While Hunting
- e) Training Accidents when proper safety procedures were followed

The review will begin at the Police Chief's direction. If a criminal investigation is warranted, the review will commence after the completion of any criminal investigation or court proceedings into the matter.

To facilitate this process, the Police Chief has established a Firearm Discharge Board (FDB) to conduct all such reviews. The Board's review will include CIS and IIS investigative files and interviews of the principal CIS and IIS investigators. The review will be concluded within 90 days of commencement. The FDB will act as a quality control mechanism for all critical firearm discharges, with responsibility to return to the Police Chief all incomplete or mishandled shooting or firearm discharge investigations. The FDB will have the authority and responsibility to recommend to the Police Chief investigative protocols and standards for all critical firearm discharge investigations.

The core members of the board will consist of a CPD Command Staff Officer, the Director of Training, the affected Bureau Commander, the Police Department Advocate and an attorney from the Solicitor's Office. All appointments will occur on or about the first day of January and be effective for one year.

The Inspections Section Commander will serve as the chairperson of the FDB. The chairperson is responsible for coordinating all meetings and ensuring all relevant material compiled during any criminal or administrative investigation is reviewed. The chairperson is also responsible for submitting a written report to the Police Chief within the established timelines.

The Police Chief may appoint additional FDB members as needed. The Police Chief will appoint a replacement member in the event a board member retires, or is no longer able to fulfill membership duties. The Police Chief may disqualify a FDB member at anytime.

All efforts will be made to conclude reviews within the established timelines. If the Police Chief determines extenuating circumstances exist, the Police Chief may extend the established timelines.

Proceedings by the FDB are to be conducted informally, directed towards the issues of the appropriateness of Department policies and procedures, member's judgement, and the training adequacies with respect to the member's knowledge, skill, and resources. The chairperson will determine what evidence is relevant and reliable without regard for technical or formal rules of evidence. The chairperson will determine the need to call witnesses and may order witnesses to be separated during the review.

The chairperson will prepare a final report to the Police Chief that will become part of the investigation file. The report will include a description of the incident (including all uses of force), a summary and analysis of all relevant evidence, proposed findings and analysis to support those findings. In particular, the board will determine: a) whether all uses of force during the encounter were consistent with Department policy and training, b) whether the officer(s) involved employed proper tactics, and c) whether lesser force alternatives reasonably were available.

On or before the first day of February, the FDB chairperson will prepare and present to the Police Chief a summary report reviewing each closed critical firearm discharge from the preceding year. This report will include analysis of patterns and problems discovered during the review.

Procedure:

A. Shots Fired

1. Report all shots fired by police personnel to an on-duty supervisor immediately regardless of the circumstances. Personnel having knowledge of a shot fired by another officer will report the incident to an on-duty supervisor immediately. This includes:
 - a. Shots fired at or taking effect against an individual.
 - b. Warning shots.
 - c. Shots fired at animals.
 - d. Accidental discharges.
 - e. Shots fired from any firearm by off-duty personnel except:
 - 1) Target or competition shooting.
 - 2) Hunting.
 - 3) Military service.

2. Personnel are not required to report shots fired while participating in department authorized firearms training.
 3. The investigating supervisor will notify PCS.
 4. PCS will notify the appropriate personnel on the Situational Occurrences Notification List.
- B. Shots Fired at Individuals and Accidental Discharges
1. The investigating district/section/unit supervisor will:
 - a. Ensure protection of the scene.
 - b. Notify PCS.
 - 1) PCS will notify the Criminal Investigation Section (CIS) Desk Officer who will make CIS notifies according to CIS SOP and then notify the appropriate personnel listed on the Situational Occurrences Notification List.
 - c. No one will take the officer(s') pistol or gunbelt at the scene. The officer(s') pistol will remain in his holster and the officer will wear his gunbelt until possession is transferred to a Homicide Unit supervisor.
 - 1) Under no circumstances will the officer(s') pistol be examined or unloaded. If safety is an issue, a Homicide Unit supervisor will be immediately contacted for instructions.
 - 2) If an officer(s) is transported to the hospital for treatment, a district/section/unit supervisor will respond and take possession of the officer(s') pistol and gunbelt. That supervisor will document date, time, location, and from whom the officer(s') equipment was obtained and contact a Homicide supervisor.

- 3) A supervisor will be assigned to take control of the officer(s) involved in a shots fired that take effect. They will remain at the scene. At the direction of a Homicide supervisor, district supervisor(s) will transport the involved officer(s) to CIS and remain with the officer(s) until relieved by a CIS supervisor.
 - a) No one will be permitted access to the officer(s') pistol or gunbelt without the approval/consent of a Homicide supervisor.
 - b) When multiple officers are involved, a separate supervisor will be assigned to each officer. If there is a need, request a supervisor(s) from another district(s).
 - d. Locate witnesses to the incident. If possible, separate the witnesses and have them held at or near the scene until they have conferred with a Homicide Unit supervisor or a Personal Crimes Unit supervisor. Ensure their transportation to CIS for interview by CIS and Internal Investigation Section (IIS).
 - e. Conduct a preliminary fact finding investigation at the scene.
 - 1) Do not publicly comment about the propriety of the action taken.
 - f. Brief Homicide Unit and IIS investigators.
2. The CIS Commander, Homicide Unit Commander, Personal Crimes Unit Commander, and IIS Commander will respond to the scene. The Homicide Unit Commander and IIS Commander will conduct independent, parallel investigations of the incident. The involved officer(s') unit of assignment will assist CIS and IIS with the investigation. The Major Offenders Unit Commander will respond to the hospital or Coroner's office if an injury or death has occurred.

3. Homicide Unit/IIS investigators will:
 - a. Conduct an investigation and report per their standard operating procedure (SOP). All investigations will include, to the extent possible, appropriate crime scene analysis, gunshot residue tests, and ballistic tests including bullet trajectory tests.
 - 1) Investigators will ensure, to the extent possible, that the investigation accounts for all shots and the locations of all officers who discharged their firearms.
 - b. Collaborate in preparing a Form 18F, Supervisor's Use of Force Investigation, without a conclusion, with Internal Investigations Section completing the Form 18F.
 - 1) The original Form 18F will remain with the involved officer's unit of assignment.
 - c. Immediately fax the Form 18F to the following locations:
 - 1) Police Chief's Office
 - 2) Internal Investigations Section
 - 3) Patrol Bureau
 4. The district/section/unit commander or acting commander will respond to the scene and coordinate the activities of the field personnel at the scene.
 5. IIS will respond and coordinate the Department investigations.
- C. Shots Fired at Animals
1. Notify PCS.
 - a. PCS will notify the appropriate personnel on the Situational Occurrences Notification List.
 2. The investigating district/section/unit supervisor will complete a Form 18A, Supervisor's Preliminary Investigation: Weapons Discharge at an Animal.

- a. Fax the Form 18A to Inspections Section.
 3. If the shots take effect, notify the SPCA to pick up the dead animal pending a later examination by the Board of Health.
- D. Personnel Injured by Department Authorized Firearms During Training Exercises
1. The OIC will immediately notify PCS.
 - a. PCS will notify the appropriate personnel on the Situational Occurrences Notification List.
 - 1) The command officer notified will determine IIS involvement.
 2. A Firearms Training Unit supervisor will investigate all firearms related, non-serious harm injuries:
 - a. That occur during firearms training.
 - b. Where all safety rules and procedures have been followed.

Example: A person is struck and injured by a piece of lead that has blown back from a target.
 - c. For reporting, refer to Procedure 19.105, Section E., Personnel Injured On Duty.
 - d. A Firearms Training Unit supervisor will immediately notify PCS for Situational Occurrences Notification and the Training Section Director of injuries which require medical attention at a hospital.
 3. Life threatening or serious injuries, injuries due to intentional acts, or injuries that occur as a result of violations of safety rules and/or procedures:
 - a. Follow Section B. of this procedure.
 - b. If the incident occurs outside of the city limits, the criminal investigation will be made by the law enforcement agency in whose jurisdiction the incident occurred.
 - c. CIS may assist the law enforcement agency in its investigation.

E. Firearms Discharge Board

1. The Police Chief will review and forward to IIS the CIS investigation report, letter from the Hamilton County Prosecutor, and any other material deemed relevant to the Firearms Discharge Board (FDB). The FDB will issue its final report to the Police Chief within 90 days of receipt of the material.
2. Within 30 days of receipt of the material, the IIS Commander will notify and arrange a meeting between the FDB, CIS Commander, and investigators.
3. Recommendations made by the FDB should be unanimous or by consensus. If consensus can not be reached, a majority/minority opinion will be prepared at the direction of the chairperson. The report presented by the FDB will identify training issues, outline any recommended policy and/or procedure changes, and identify individual officer training needs and corrective measures. References to specific policies, procedures, or training will be included in all recommendations.

F. Loading and Unloading of Firearms for Inspection

1. Maintain a distance of 15 feet from the designated safe wall when unloading a firearm.
2. The OIC will give the command to form a line facing the safe wall and for officers to unload firearms at the same time. Firearms will be pointed towards the safe wall while unloading.
3. Once the firearm has been inspected, the OIC will give the command to reload.

12.536 FOOT PURSUITS

References:

Procedure 12.140 - Canine Operations
Procedure 12.175 - Use of Special Weapons and
Tactics Unit
Ohio Revised Code 2921.31 - Obstructing Official
Business
Ohio Revised Code 2921.331 - Failure to Comply with
Order or Signal of
Police Officer
Illinois v. Wardlow (2000), 528 US 119
Terry v. Ohio (1968), 392 US 1

Definitions:

Foot Pursuit: A situation in which an officer, on foot, chases a suspect in an effort to detain or arrest that individual who he has reasonable suspicion to believe is about to commit, is committing or has committed a crime and who is resisting apprehension by fleeing from the officer.

Suspect: Includes any individual who a police officer reasonably believes is about to commit, is committing or has committed an offense or poses an immediate threat to the safety of the public, other officers, or themselves.

Contact/Cover: Describes the practice of having two or more officers working together during a foot pursuit. The officers work in unison via direct or indirect communication to coordinate their efforts, remain aware of the locations of officers and suspects, and keep abreast of the status of the pursuit.

Purpose:

To facilitate the safe apprehension of a suspect who flees on foot and to prevent officer injury.

Policy:

Whenever an officer decides to engage, or continue to engage, in a foot pursuit a quick risk assessment must take place. They must evaluate the risk involved to themselves, to other officers, the suspect and the community versus what would be gained from pursuing the suspect.

Procedure**A. Factors to Consider when Initiating a Foot Pursuit**

1. Whether the suspect is armed
2. The offense committed by the suspect
3. Location:
 - a. Nature of area: residential, commercial, school zone, expressway, etc.
 - b. Conditions of the structures: abandoned or condemned
 - c. Environmental factors: weather or darkness
4. Ability to apprehend the suspect at a later date
5. Communications
 - a. Familiarity with area, ability to transmit location of fleeing suspect
 - b. Radio frequency and coverage (dead spots)
6. Availability of backup units to assist

B. Pursuing Officer(s) Responsibility

1. The decision to initiate or continue a foot pursuit requires weighing the need to apprehend the suspect against the degree of risk to which the officer and others are exposed as a result of the pursuit.
2. Once the foot pursuit has been initiated, the officer must notify Police Communications Section (PCS) of the following information:
 - a. Car number
 - b. Location
 - c. Direction
 - d. Description of suspect

- e. If armed with a weapon
 - f. Reason for foot pursuit
3. PCS will notify a supervisor of the pursuit circumstances and any other relevant information.
 4. The pursuing officer will coordinate with other officers to establish a perimeter in the area to contain the suspect.
 - a. In the event that a suspect is confined in an area, consideration should be given to the use of specialized units such as Canine Squad or SWAT Unit.
- C. If possible, officers should consider the feasibility of the following strategies or tactics prior to initiating foot pursuits:
1. Area containment
 2. Surveillance
 3. Obtaining additional officers
- D. Police Officer should Terminate a Foot Pursuit:
1. If ordered by a supervisor.
 2. If the officer believes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect.
 3. If the suspect's identity is known and he is not an immediate threat to the safety of the public or other officers, consider terminating the pursuit and apprehend at a later date.
 4. After termination of the foot pursuit, officers will notify Police Communications Section (PCS) with the last know location of suspect or point of apprehension.

E. Supervisor's Role

1. The supervisor's role is to monitor a foot pursuit and appropriately direct resources to safely apprehend the suspect.
2. The supervisor will terminate a foot pursuit at any time if it is determined the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the suspect.

DEPARTMENT RULES AND REGULATIONS/POLICIES AND PROCEDURES

COLLINGSWOOD POLICE DEPARTMENT	EFFECTIVE DATE: 01-01-98
VOLUME TITLE: INTER-AGENCY PROCEDURES	# PAGES: 07
PROSECUTOR REVIEW POLICY	REFERENCE: V5C6f
SUBJECT: FOOT PURSUIT PROCEDURES	
ISSUING AUTHORITY: CHIEF THOMAS J. GARRITY JR.	
ATTORNEY GENERAL, PROSECUTOR'S OFFICE REFERENCE	

POLICY:

The foot pursuit of a fleeing person(s) is a very serious matter. When a police officer initiates a foot pursuit, he/she must consider many factors such as the nature of the offense or call, the area and location involved, communications, physical dangers, physical condition and abilities, the safety of the officer and the safety of the general public. Little if any formal training has been established in the area of foot pursuits. This policy is an attempt to establish formal guidelines to assist the officer in dealing with foot pursuits and the dangers associated with these pursuits.

While the risks involved with foot pursuits towards the general public is much less than in vehicle pursuits, the inherent risks to the officer is somewhat greater. The majority of foot pursuits involve a one on one situation with the officer and violator, often in isolated or unfamiliar surroundings. In addition, the officer is more likely than not, placing himself in a dangerous situation by following a fleeing person into a wooded area, building, structure, confined space or other isolated area. The officer is often less aware of his exact location, as he is focused on the fleeing person, making it difficult for other officers to locate the officer to render assistance in a timely manner. Numerous case studies exist involving officers being seriously injured during a foot pursuit, radioing for assistance and responding officers being unable to locate them immediately. In addition, statistics and case studies show a high rate of officers being assaulted, seriously injured or killed during foot pursuits.

A police officer has the authority, at all times, to attempt the stop of any person suspected of having committed any criminal offense, violation or traffic violation. It is clear that while it is the officer who initiates the stop, it is the violator who initiates the foot pursuit. The

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officer's decision to pursue should always be undertaken with an awareness of the degree of risk to which the law enforcement officer exposes himself and others. The officer must weigh the need for immediate apprehension against the risk created by the foot pursuit.

PROCEDURE:

The primary purpose of this policy is to secure a balance between the protection of the lives and safety of the public and police officers, and law enforcement's duty to enforce the law and apprehend violators. Since there are numerous situations which arise in law enforcement that are unique, it is impossible for this policy or any standard operating procedure to anticipate all possible circumstances. Therefore, this policy is intended to guide a police officer's discretion in matters of foot pursuit.

This policy has been formulated to provide minimum requirements to direct the COLLINGSWOOD Police Department officer's activities in this very critical area of police practice. This policy shall serve as a guideline and will introduce a concept of "TEAM" cooperation in apprehending a fleeing person. It is the goal of this policy to help the officer in the event of a foot pursuit and to also minimize the dangers associated with foot pursuits.

Deciding whether to pursue a fleeing person is a critical decision made by law enforcement officers daily. It is a decision which must be made quickly and under difficult, often unpredictable circumstances. In recognition of the potential risk to public safety and officer safety, no officer or supervisor shall be criticized or disciplined for a decision not to engage in a foot pursuit or to terminate an ongoing foot pursuit based on the risk involved. Likewise, police officers who conduct pursuits consistent with this policy will be strongly supported by law enforcement community in any subsequent review of such actions.

DEFINITIONS:

- A. **Foot Pursuit:** The physical attempt by an officer(s) to detain, arrest or otherwise take physical custody of a person who attempts to flee on foot, without the aid of a vehicle or other motorized device.
- B. **Law Enforcement Officer:** Any person sworn to uphold the law who is certified by the Police Training Commission and who is currently employed by a public safety agency.
- C. **Supervisor:** A police officer who, by virtue of rank or assignment, is responsible for the direction or supervision of the activities of other police officers.

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- D. Violator:** Any person who a police officer reasonably believes: (1) has committed and offense enumerated in Section I, A of this policy or (2) poses an immediate threat to the safety of the public or other police officers.
- E. TEAM Concept:** The practice of having two or more officers working in unison to apprehend a fleeing person on foot, working together via direct or indirect communications to coordinate their efforts, location and status.

I. DECIDING WHETHER TO PURSUE

A police officer has the authority, at all times, to attempt the stop of any person suspected of having committed any criminal offense, violation or traffic violation. It is clear that while it is the officer who initiates the stop, it is the violator who initiates the pursuit. The officer's decision to pursue should always be undertaken with an awareness of the degree of risk to which the law enforcement officer exposes himself and others.

A. Authorization of Pursuit

1. A police officer may pursue

- a.** When the officer reasonably believes that the violator has committed a Criminal Offense, Violation or Motor Vehicle Violation that would permit the officer to detain, arrest or otherwise take custody of the violator.
- b.** When a police officer reasonably believes that the violator poses an immediate threat to the safety of the public or other police officers.

B. In the event that a foot pursuit is initiated, an officer must still consider the following factors:

- 1.** Likelihood of successful apprehension.
- 2.** Whether the identity of the violator is known to the point whether later apprehension is possible.

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3. Degree of risk created by pursuit:
 - a. Nature of the area: residential, commercial, school zone, open highway, etc.
 - b. Conditions of the structures, such as abandoned or condemned buildings.
 - c. Population density and volume of pedestrian traffic.
 - d. Environmental factors such as weather and darkness.
 4. Police Officer characteristics:
 - a. Physical conditioning and abilities
 - b. Familiarity with area
 - c. Communications
- C. Terminating the pursuit
1. The pursuing officer shall terminate the foot pursuit:
 - a. If instructed to do so by a supervisor, or
 - b. If the officer believes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the violator, or
 - c. If the violator's identity is established to the point where later apprehension may be accomplished and where there is no immediate threat to the safety of the public or police officers, or
 - d. If the violator's location is no longer known, or
 - e. If there is a person injured during the foot pursuit and there are no police or medical personnel able to render assistance, or
 - f. If loss of communications occurs, or
 - g. If advised of any unanticipated condition, event or circumstance which substantially increases the risk to public safety inherent in the pursuit.

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2. When the pursuing officer terminates the pursuit he will immediately notify communications of such, giving his location of termination.

II. ROLE OF THE PURSUING OFFICER

- A. The decision to initiate and/or continue a pursuit requires weighing the need to immediately apprehend the violator against the degree of risk to which the officer and others are exposed as a result of the pursuit.
- B. Once the pursuit has been initiated, the primary officer must notify communications and a superior officer providing as much of the following information as is known:
 1. Reason for the pursuit.
 2. Direction of travel, area designation and/or location of roadway.
 3. If known, the identification of the violator, or a description to include physical features, clothing, possible weapons and other identifying characteristics.
 4. Number of fleeing violators.
 5. Other information that may be helpful in terminating the pursuit or resolving the incident.
- C. The primary officer will immediately, directly or indirectly via communications, coordinate with secondary officers to establish a perimeter in the area to contain the violator, following the below procedures:
 1. The primary officer should not attempt to overtake the fleeing violator, rather keeping him in sight until a proper perimeter can be established by secondary units, employing the "TEAM" concept to apprehend the violator.
 2. In the event that a violator enters into a building, structure, confined space, wooded area or otherwise isolated area, the primary officer shall radio his location, standing by on the outside of the structure, building, confined

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3. space, wooded area or otherwise isolated area, awaiting the arrival of secondary units to establish an outer perimeter around the area.
OFFICERS ARE NOT TO PURSUE VIOLATORS INTO ANY OF THE ABOVE AREAS ALONE. WITHOUT AN ESTABLISHED PERIMETER AND AUTHORIZATION BY A SUPERVISOR.
4. In the event that a violator is confined within one of the above areas and is not compliant, consideration should be given to the use of specialized units such as a K-9, or when warranted, such as in suspected armed violators, the use of the Zone #1 Critical Response Team, as determined by a supervisor, to bring about the apprehension of the violator.

III. FOOT PURSUIT RESTRICTIONS

- A. No pursuits will be conducted
 1. Into buildings, (vacant or occupied), structures, confined spaces, or into wooded areas or otherwise isolated locations, without using the “TEAM” concept and authorization by supervisor, or in the event of extreme urgency, such as the immediate threat to the safety of officers or others.
 2. If the officer believes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension.
 3. If the officer is disarmed or losses possession of his/her weapon.
 4. If the officer losses contact with communications for any reason.
 5. If the officer losses visual contact with the violator and is unsure of his whereabouts or continued direction of travel, commonly known as “running blindly” after the violator.

IV. ROLE OF THE SUPERVISOR

Upon being notified or becoming aware of the foot pursuit, the supervisor shall decide as quickly as possible whether or not the foot pursuit should continue.

- A. The supervisor shall permit a foot pursuit to continue if

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1. There is a reasonable belief that the violator has committed a Criminal Offense, Violation or Motor Vehicle Violation that would permit the officer to detain, arrest or otherwise take custody of the violator, or
 2. There is a reasonable belief that violator poses an immediate threat to safety of the public or other police officers.
- B. The supervisor shall order a foot pursuit terminated at any time if he or she concludes that the danger to the pursuing officers or the public outweighs the necessity for immediate apprehension of the violator.
- C. The supervisor shall ensure, for the duration of the foot pursuit, that this policy and agency procedures are followed by all officers.

V. COMMUNICATIONS CENTER RESPONSIBILITIES

- A. Upon notification that a foot pursuit is in progress, communications personnel shall immediately advise a field supervisor of essential information regarding the foot pursuit (when possible).
- B. Communications personnel shall carry out the following activities and responsibilities during the pursuit:
1. Receive and record all incoming information on the foot pursuit and the pursued violator;
 2. Control all radio communications and clear the radio channels of all nonemergency calls;
 3. Obtain criminal record and warrant checks of the suspects;
 4. Coordinate and dispatch backup assistance and air support units under the direction of the field supervisor;
 5. Notify neighboring jurisdictions, where practical, when the foot pursuit may extend into their locality; and
 6. Provide copy of communications tape to the Chief's Office.

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VI. REINSTATING PURSUITS

- A. Reinstatement of any previously terminated pursuit shall be undertaken consistent with the authorization criteria for originally initiating a pursuit.

VII. INTER-JURISDICTIONAL PURSUITS

- A. The original pursuing jurisdiction shall provide timely notification of a foot pursuit in progress to any other jurisdiction into which the pursuit enters.

VIII. FOOT PURSUIT REVIEW

- A. Foot Pursuit incidents will be reviewed for compliance with applicable policy and department operating procedures.
- C. Foot Pursuit incidents will also be reviewed to identify the need for remedial training of individual officers or specific areas of emphasis in agency-wide training regarding foot pursuit situations and the application of foot pursuit policies and procedures.

IX. TRAINING

- A. All officers will attend in-service foot pursuit training twice annually. This in-service training shall be held simultaneously with use of force training which is provided in the firearms requalification process.
- B. Foot pursuit training shall consist of knowledge of applicable statutes, familiarization with police foot pursuit policy and departmental procedures, and decision making skills.

REV. 11-2002

105.00 USE OF FORCE

105.00 Use of Force Policy

(1) POLICY:

The Denver Police Department recognizes that the duties of a peace officer may require officers to use force. The department will support the lawful use of reasonable and appropriate force by officers in the performance of duty. Use of force that is not lawful, reasonable and appropriate will not be tolerated. Department Policy as well as relevant Federal, State and Local laws shall govern use of force by officers.

The level of force applied must reflect the totality of circumstances surrounding the immediate situation. The officer need only select a level of force that is within the range of "objectively reasonable" options. Officers must rely on training, experience and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed.

Officers may either escalate or de-escalate the use of force as the situation progresses or circumstances change. When a suspect is under control, either through the application of physical restraint or the suspect's compliance, the degree of force shall be de-escalated accordingly.

Officers who use force as described in the Colorado Revised Statutes or the Operations Manual of the Denver Police Department must immediately report the circumstances to a command or supervisory officer and comply with all reporting requirements.

An officer who witnesses inappropriate, unnecessary, unreasonable or excessive use of force by another officer shall report it immediately to a command or supervisory officer.

Officers who are off-duty and become involved in any use of force situation must report the circumstances to an on-duty Denver Police Department command or supervisory officer as soon as the situation is stabilized. An exception to the requirement of reporting to an on duty supervisor or command officer may be granted by the Chief of Police for major events involving off duty officers. If an exception is granted a supervisor or command officer working the event may be allowed to fulfill the reporting requirements.

Officers are responsible to ensure that medical treatment is provided to any person who has been injured or alleges injury as a result of being subjected to the use of force.

(2) STATE STATUTES

- a. Colorado Revised Statutes 18-1-707 states in pertinent part: Use of physical force in making an arrest or in preventing an escape:

"(1) Except as provided in subsection (2) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

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

(b) To effect an arrest or prevent the escape from custody, of a person whom he reasonably believes:

- (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
- (II) Is attempting to escape by the use of a deadly weapon; or
- (III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

(3) Nothing in subsection (2)(b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain custody.

(4) For the purposes of this section a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts and circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsection (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid."

- b. 18-8-803: The community expects and the Denver Police Department requires that peace officers use only the force necessary to perform their duties. Colorado law mandates the same and holds an officer accountable to do so in CRS 18-8-803 which states in part:

"(1)...a peace officer who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen."

"(2)...'excessive force' means physical force which exceeds the degree of force permitted pursuant to 18-1-707 (Use of force in making an arrest or in preventing an escape). The use of excessive force shall be presumed when a peace officer continues to apply physical force in excess of the force permitted by section 18-1-707 to a person who has been rendered incapable of resisting arrest."

- a. 18-8-802: The law requires that an officer who witnesses another officer using excessive force must report it to a supervisor. The Colorado Revised Statutes 18-8-802 states in part:

"(1)(a) A peace officer who... witnesses another peace officer... use physical force which exceeds the degree of physical force permitted pursuant to 18-1-707 [Use of force in making an arrest or in preventing an escape] must report such use of force to such officer's immediate supervisor."

"(1)(c) Any peace officer who fails to report such use of force in the manner prescribed commits a class 1 misdemeanor..."

(3) CASE LAW

- a. Colorado law does not require an officer to retreat from an attack rather than resorting to physical force. A peace officer is expected to take appropriate action to handle a situation and is authorized to use the reasonable and appropriate force necessary to overcome resistance. The degree of force required may be different in different situations. (Boykin V. People, 22 Colo. 496, 45 P. 419).

Law enforcement officers are permitted to use force to effect an arrest only to the extent that it is "objectively reasonable" under the circumstances (Graham v. Connor, 490 U.S. 386, 397, 109 S.Ct.1865, 104 L.Ed.2d 443).

(4) PERTINENT CONCEPTS AND DEFINITIONS

- a. Definitions:

1. Reasonable Belief – When facts or circumstances the officer reasonably believes, knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
 2. Deadly Physical Force – That force, the intended, natural, and probable consequence of which is to produce death and which does, in fact, produce death.
 3. Bodily Injury – “Physical pain, illness, or any impairment of physical or mental condition.”
 4. Serious Bodily Injury – “Bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.”
- b. Types of Resistance
1. Psychological Intimidation – Non-verbal cues in attitude, appearance, demeanor or posture that indicate an unwillingness to cooperate or a threat.
 2. Verbal Non-Compliance – Verbal responses indicating an unwillingness to comply with officer’s directions or threat to injure a person.
 3. Passive Resistance – Physical actions that do not prevent the officer’s attempt to control, for example, a person who remains in a limp, prone position.
 4. Defensive Resistance – Physical actions that attempt to prevent officer’s control including flight or attempt to flee, but do not involve attempts to harm the officer.
 5. Active Aggression – A threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.
 6. Aggravated Active Aggression – Deadly force encounter.
 7. Psychological Intimidation, Verbal Non-Compliance and Passive Resistance usually do not involve conduct sufficient to support criminal charges related to resistance.
- c. Factors to determine “objectively reasonable” force options.
1. The reasonableness of an officer’s use of force is based upon the totality of the circumstances known by the officer at the moment the force is used.
 2. The following five (5) basic factors are considered when determining “reasonableness”. Bearing in mind that the standard is “totality of the circumstances,” these five (5) factors are not the only factors to be considered. The following have not been placed in a specific order of priority.
 - (a) Imminent threat of injury to officers and/or others. The greater the level of the threat, the greater the level of force that may be used.
 - (b) If the person is actively resisting seizure, the officer may escalate the justified (reasonable) level of force.
 - (c) Circumstances are tense, uncertain, and rapidly evolving. Some incidents take hours to resolve, while others are over in seconds. The more tense, uncertain and rapidly evolving the incident, the higher the level of force that may be reasonable.
 - (d) The more severe the crime, the more force that may be justified.
 - (e) Attempting to evade seizure by flight may justify escalating the level of force.

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3. Each situation is unique. Sound judgment and the circumstances of each situation will dictate the force option the officer deems necessary. Depending on the circumstances, officers may find it necessary to escalate or de-escalate the use of force. It is not the intent of this policy to require officers to attempt to exhaust each option before moving to the next, so long as the level of force used is reasonable and appropriate under the circumstances.
- d. Use of Force/Control Options
 1. The level of force employed must be commensurate with the threat posed by the suspect and the seriousness of the immediate situation. It is recognized and understood that circumstances are fluid and may change rapidly. Officers should rely on their training, experience, and assessment of the situation, to decide the appropriate level of force.
- e. The following list is not intended to suggest the order in which the various categories of force should be used in any specific situation:
 1. command presence
 2. voice
 3. hand control
 4. chemical agent
 5. hand strike, leg thrust / kick
 6. baton / impact instrument
 7. carotid restraint technique
 8. R.I.P.P. restraint devices
 9. less lethal weapons
 10. deadly force
 11. police service dog

105.01 Use of Force Procedures

(1) DUTY TO REPORT

Officers shall immediately report the circumstances of all resistances or incidents involving use of force to a supervisor or command officer. The supervisor or command officer shall ensure that all sections of the Denver Police Department Operations Manual and the Colorado Revised Statutes have been followed.

- a. The Use of Force Report and related supervisory investigation and reports are required in an of the following circumstances: An officer discharges a firearm other than in training or for bona fide recreational purposes. A person is injured or dies while in custody. See OMS 301.13, In-Custody Incident Investigations and OMS 301.14(8), In-Custody Death Investigations.
 1. A person is injured or complains of injury as a result of use of any physical force including the use of any weapon, chemical agent or deployment of a Police Service Dog.
 2. A defendant is charged with resistance and/or assault to a police officer.
 - (a) In any case of assault on a police officer, "Investigation of Assault" will be charged. The suspect should not be charged with resistance or any additional charges at this time, however, a General Sessions Summons and Complaint containing any additional charges is to be made describing details of the incident. Upon completing the GSS&C, the "service" area will be left blank and the form will be forwarded to the Assault Unit along with all necessary paperwork.
 3. An officer encounters an individual with obvious injuries, and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from contact with the officer.

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4. An officer applies force through use of the following, whether an arrest is or is not made:
 - (a) Any tool, object or device used as an impact weapon.
 - (b) Carotid control hold.
 - (c) Chemical agent.
 - (d) Pepper Ball.
 - (e) ERD (taser).
 - (f) Shotgun or 40 mm less lethal round.
 - (g) Police service dog.
 - (h) Hand strike, leg thrust / kick.
- b. The primary involved officer will prepare DPD Form 12, Report of Use of Force / Injury Prior to Arrest (UOF/I), paying particular attention to the facts of the incident. The report shall include:
 1. An accurate description of the incident using the coded tables and text boxes on the UOF form, and
 2. Names of all involved officers, suspect(s) and witnesses. Additional forms will be used as continuation pages. Only those sections applicable need be completed on continuation pages, and
 3. A narrative summary of the significant facts of the incident which are not listed on the front of the form.
- c. The officer's supervisor shall respond to the scene and shall personally contact the officer immediately after the incident. The supervisor will interview witnesses and suspects, collect evidence and take photographs when appropriate. The supervisor will assist in preparing the UOF Report, paying particular attention to the facts of the incident. When indicated, supervisors shall counsel officers in methods to better handle future situations to avoid or minimize the use of force.
- d. Each resistance, injury prior to arrest and injury while in custody incident will require the supervisor to conduct an independent and complete investigation and prepare and distribute written reports and documents the minimum guidelines for which are described below:
 1. The supervisor's conclusion that the details of the incident and facts contained in the UOF Report are accurate, and
 2. Names and statements of all witnesses, and
 3. A narrative summary of any significant facts determined through investigation, and
 4. The supervisor's conclusions that:
 - (a) The UOF and all reporting requirements were performed within policy or
 - (b) One or more policy or procedure may have been violated, citing the specific Operations Manual Section. If the supervisor finds that violations may have occurred, his/her commanding officer will be immediately notified and will determine the appropriate course of action regarding additional investigation, contact of IAB, etc.
 5. When investigating a UOF incident involving deployment of the ERD/Taser, the supervisor must recover and place into the Property Bureau the Taser probes and identification confetti. Only medical personnel will be allowed to remove probes from individuals struck by the ERD/Taser. Data from the ERD/Taser shall be downloaded into a computer file and the results shall be documented as part of the use of force investigation.
 6. The Report of Use of Force / Injury Prior to Arrest, DPD Form 12, shall be promptly distributed as follows:

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- (a) The original report, along with all original statements, copies of other reports and photos, shall be forwarded to the Internal Affairs Bureau in a sealed envelope.
 - (b) One copy shall be forwarded to the officer's Division Chief.
 - (c) One copy shall be forwarded to the officer's Bureau or District Commander, through the chain of command.
7. Supervisory or command officers performing secondary employment SHALL NOT investigate use of force incidents or injury prior to arrest incidents involving themselves or any officer performing secondary employment under their supervision. On-duty personnel shall be summoned for this function (see 105.00(1)(i) above).
 8. Any supervisory or command officer who investigates any incident involving any officer engaged in secondary employment must inspect the off-duty officer's REQUEST FOR SECONDARY EMPLOYMENT APPROVAL, DPD 149, and document the results.
 9. Supervisors and Command officers SHALL NOT investigate use of force incidents in which they are personally involved.
 10. If the involved employee is a member of the Denver Sheriff's Department, a supervisor from that agency will be requested via radio to respond to the scene and complete the appropriate reports required by that agency. Denver Police officers will assist with witnesses and/or statements if requested; however the reporting requirements will be the responsibility of Denver Sheriff's personnel.
 11. Procedures for processing juveniles involved in a resistance incident are detailed in OMS 403.01(9).

(2) DUTY TO REQUEST MEDICAL ATTENTION

- a. Any time there is an injury or an alleged injury as a result of force used by department personnel or an officer encounters an individual with obvious injuries and the circumstances of the encounter coupled with the nature of the injuries are such that the person may claim the injuries resulted from the contact with the officer, the involved officer(s) shall:
 1. Visually examine any person claiming injury, request medical attention and immediately notify a supervisor. When an individual is struck with a less lethal weapon or an impact tool/device or sprayed with a chemical agent, an ambulance shall be called to the scene of the incident to examine the person at the earliest and safest opportunity. Medical personnel will determine whether further medical attention is required.
 2. Any prisoner suffering from any illness, injury or other condition that requires medical attention, such as the ingestion of narcotics or other harmful substances, will be sent to Denver Health Medical Center for treatment.
 3. It is the policy of the Denver Sheriff's Department to refuse custody of injured prisoners unless accompanied by reports indicating that they have been examined or treated, or have refused to submit to examination or treatment at Denver Health Medical Center or another appropriate medical facility.
 4. Violent behavior may mask dangerous medical conditions; therefore, detainees shall be continuously monitored and provided with medical treatment, if needed.

105.02 Less Lethal Force and Control Options

- (1) POLICY:
The primary duty of police officers is to protect the public, themselves and other officers. Less lethal force and control options may assist officers in performing these duties, but are not intended to substitute for the use of deadly force when it is reasonable and necessary. There is neither a requirement nor an expectation that officers attempt to use or exhaust less lethal options in situations requiring the use of deadly force.
- (2) LESS LETHAL OPTIONS
The Denver Police Department authorizes the use of Electronic Restraints Devices (ERD)/TASER,

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Pepper Ball deployment systems and 12-gauge and 40mm beanbag projectile systems to be carried by certain officers in their normal duty assignments.

(3) LESS LETHAL WEAPONS DEFINITIONS

- a. Less lethal: A concept of planning and force application which meets an operational or tactical objective, with less potential for causing death or serious injury than conventional more lethal police tactics.
- b. Less lethal weapon: Any apprehension or restraint device approved for carry which, when used as designed and intended has less potential for causing death or serious injury than conventional police lethal weapons. Less lethal weapons include Electronic Restraints Devices (ERD/TASER), Pepper Ball deployment systems, less lethal 12 gauge shotguns and 40mm projectile systems and others as approved by the Chief of Police.
- c. Less lethal officer: An officer trained in the principles of less lethal force and the use of less lethal weapons who is authorized by the Department to carry and deploy one or more of the weapons in the performance of their duties.
- d. Less lethal shotgun: Department approved 12-gauge shotgun with a cylinder bore eighteen-inch barrel. The shotgun has a high visibility stock and fore-end and is equipped with rifle sights.
- e. 12-gauge beanbag projectile: Department approved low and high velocity projectile. The beanbag projectile is a lead-shot-filled fabric bag designed to be non-penetrating and to deliver its kinetic energy over a broad surface area.
- f. 40mm Grenade Launcher: Either a single round or multi-launcher, department approved, with fixed stalk and rifle barrel.
- g. 40mm Beanbag Projectile: Department approved projectile. The projectiles authorized for Department use include a 60-cal. stinger or rubber ball projectile, wood baton round and sponge round.
- h. ERD/TASER: Advanced Taser M-26 ERD (Electronic Restraint Device) which uses a 26-watt electrical signal to temporarily override the central nervous system and directly control the skeletal muscles. This causes an uncontrollable contraction of the muscle tissue, allowing the M-26 to physically debilitate a target regardless of pain tolerance or mental focus.
- i. Pepper Ball System: Air-Powered launch device, and projectiles that are plastic spheres filled with powdered or liquid 5% Oleoresin Capsicum (OC). Projectiles burst on impact and release OC. Pepper Ball projectiles subdue by strongly irritating the nose, lungs and breathing. Response to inhaling Pepper Ball projectile OC powder varies greatly among individuals. In most cases the symptoms last for a few minutes. The Pepper Ball can deliver projectiles with enough kinetic energy to produce abrasions, bruises, and/or welts.

(4) LESS LETHAL WEAPON PROCEDURES

The authorization to carry a less lethal weapon is a privilege and can be revoked at any time, for any reason by the officer's commander with approval of the officer's Division Chief or higher.

- a. Officers will be selected, trained and certified as less lethal officers and alternates. Only less lethal officers and alternates are authorized to display, carry or deploy any less lethal weapon. When vacancies occur among the ranks of less lethal officers, they will be filled by designation of an officer from the alternate pool. Selection of less lethal officers and alternates will be based on the following criteria:
- b. Minimum qualifications
- c. Officers must be selected by their commanding officer and approved by their Division Chief.
 1. Officers must attend and pass a mandatory training course, an annual in-service course and periodic qualification conducted by Firearms Section personnel. The formal updated training curriculum and list of qualified officers will be kept on file at the Training Bureau.
 2. Less lethal certified officers who fail to qualify with their firearm two or more quarters in a twelve-month period shall be removed from the less lethal program. It is the responsibility of the officer and the supervisor of the Firearms Section to notify the officer's commander and the officer's Division Chief verbally and in writing of the failure to qualify as required by this section.

3. Violations of this policy may result in revocation of the privilege to carry a less lethal weapon.
- d. Storage and issuance of less lethal weapons.
 1. Storage
 - (a) All Less lethal weapons not deployed in the field will be maintained in a police facility, in a locked cabinet or room designed specifically for the secure storage of only less lethal weapons.
 2. Issuance
 - (a) The less lethal shotgun will be issued to qualified officers by a designated armory officer or supervisor at the beginning of each shift and returned at the end of the officer's shift to an armory officer or a supervisor.
 - (b) The ERD/TASER will be issued to qualified officers by a designated armory officer or supervisor at the beginning of each shift and returned at the end of the officer's shift to an armory officer or a supervisor.
 - (c) Field Force Squad or Zone commanders may issue Pepper Ball deployment systems and less lethal shotguns or 40mm projectile systems to qualified personnel assigned to each squad.
 - (d) All available less lethal weapons will be issued at the beginning of each shift provided sufficient numbers of qualified officers are on duty and returned at the end of the officer's shift to an armory officer or a supervisor.
 - (e) Qualified officers may not decline to be issued, carry or deploy less lethal weapons.
- e. Carrying and deployment of less lethal weapons
 1. Personally owned less lethal weapons are prohibited and shall not be authorized for use.
 2. Officers or supervisors will determine when less lethal weapons are to be deployed. Officers deploying a less lethal weapon usually serve as cover officers only. Less lethal officers shall not perform any other duties, such as searching or handcuffing, until their weapon is secured. Planning and communication between officers and supervisors is important when making deployment and strategy decisions.
 - (a) The Less lethal shotgun is to be carried in the trunk of the police car with an empty chamber with the safety on and magazine loaded with four (4) rounds of Less lethal ammunition.
 - (b) When deployed, the ERD will be carried on the belt in the issued holster, worn on the side opposite the firearm. When not worn, the ERD will be secured in a locked vehicle, not visible to passers-by.
 - (c) Pepper Ball guns may be authorized by Field Force Commanders for use during field force operations and major crowd control events. Subject to availability certified supervisors or officers may carry the Pepper Ball gun while on patrol.
 - (d) Officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.
 3. Less lethal shotgun or 40mm projectile deployment:

- (a) Use of a less lethal shotgun or the 40mm projectile will be considered a use of force and must meet the requirements of all Department policies and procedures and Colorado Revised Statutes.
 - (b) Acceptable uses of a less lethal shotgun or 40mm projectile include:
 - 1. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances and it is reasonable and necessary in order to attempt to avoid having to use deadly force. (Active Aggression is defined as a threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.) OR
 - 2. As a defensive weapon option in situations where it is likely to prevent an officer or a third person from being seriously injured or killed. OR
 - 3. To incapacitate a suicidal person who cannot be safely controlled with other force options.
 - (c) Unless deadly force is warranted, an officer shall not intentionally deploy the less lethal shotgun projectile or 40mm projectile
 - 1. To the head, eyes, throat, neck, breasts of a female, genitalia or spinal column.
 - 2. To a pregnant female, (if the officer has knowledge of the pregnancy).
 - (d) When practicable, officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.
 - (e) The use of the less lethal shotgun and the 40mm projectile shall be reported as an impact use of force. In the case of a serious bodily injury or death the use shall be investigated as outlined in 105.03 "Shooting by and/or of Police Officers."
 - (f) Immediate medical treatment is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.
4. Pepper Ball System Deployment
- (a) Use of the Pepper Ball projectile shall be considered a use of force and must meet the requirements of all Department policies and procedures and Colorado Revised Statutes.
 - (b) Acceptable uses of the Pepper Ball projectile may include:
 - 1. To incapacitate combative or physically resistive persons to the point where they can be controlled and taken safely into custody,
 - 2. In situations when its use is likely to prevent an officer or a third person from being injured.
 - 3. When ordered by the field force commander or other command officer in crowd control or riot situations.
 - (c) Unless deadly force is warranted, an officer shall not intentionally deploy the Pepper Ball projectile as follows:
 - 1. To the head, eyes, throat, neck, breasts of a female, genitalia or spinal column.

2. To a pregnant female, if the officer has knowledge of the pregnancy.
 3. On or in an open wound if the officer has knowledge of the open wound.
- (d) Officers shall communicate to other officers that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.
- (e) Immediate medical treatment is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.
5. Less lethal ERD/TASER Deployment
- (a) Use of an Electronic Restraint Device (ERD/TASER) shall be considered a use of force and must meet the requirements of all department policies and procedures and the Colorado Revised Statute.
- (b) Acceptable uses of the ERD / TASER include:
1. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances. (Active Aggression is defined as a threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.) OR
 2. In situations when its use is likely to prevent an officer or a third person from seriously bodily injury, OR
 3. To incapacitate a suicidal person who cannot be safely controlled with other force options.
- (c) Unless deadly force is warranted, officers shall not intentionally deploy the ERD / TASER as follows:
1. To the head, eyes, throat, neck, breast(s) of a female, genitalia or spinal column.
 2. To a pregnant female, if the officer has knowledge of the pregnancy.
 3. On an open wound, if the officer has knowledge of the open wound.
- (d) Officers will not use the ERD/Taser in the following situations:
1. Near flammable gases or liquids.
 2. Drug houses where ether or other flammable chemicals are suspected.
 3. No officer shall playfully, maliciously, or intentionally misuse or display the ERD/Taser.
- (e) Officer shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.
- (f) Immediate medical treatment is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.

- (g) Medical treatment is required whether the subject is shot with probes or the ERD / TASER is used as a contact stun device. Only medical personnel will be allowed to remove probes from individuals shot with the ERD/TASER.
 - (h) Probes and identification confetti will be recovered and placed in the Property Bureau by the supervisor conducting the Use of Force investigation.
 - (i) Data from the M26 Taser shall be downloaded into a computer file and the results shall be documented as part of the Use of Force investigation.
- (5) IMPACT TOOLS/DEVICES: Include the Department approved police baton, sap, billy club, flashlight and O.P.N. listed below when used as an impact device.
- a. Impact tools/devices authorized for carry or use include:
 - 1. Police Baton:
 - (a) Standard issue 29 inch baton.
 - (b) Standard issue 36 inch riot baton.
 - (c) Commercially manufactured or custom made batons that closely resemble the length, diameter, composition and appearance of the standard issue baton.
 - (d) The Monadnock model MX, black, 12 inch to 26 inch, is an approved expandable baton which is not issued, but authorized for carry and use upon successful completion of specialized training.
 - (e) Batons with ornate carvings or a metal ball attached to either end are not authorized.
 - 2. Flashlight: Any commercially manufactured flashlight, black in color, up to the standard 3-cell size, not to exceed a length of 13 inches nor a diameter of 3 inches.
 - 3. Sap: Any commercially manufactured beaver-tail sap, black leather with smooth finish, not to exceed a length of 12 inches nor a width of 3 inches.
 - 4. Billy club: Any commercially manufactured or custom club, made of wood or composite material, not iron or steel, designed to fit in the sap pocket, not to exceed a length of 12 inches nor a diameter of 2 inches.
 - 5. Prohibited Items: All other devices including but not limited to sap gloves, brass knuckles, yawara sticks, iron claws, shirkins, ropes, and non-Department issued leg restraint devices, including rope or cord hobbles (refer to OMS 111.03), are not authorized for carry.
 - b. Impact Tool/Device - General Guidelines:
 - 1. If a person resists non-violently (passive non-compliance), the impact tool/device may be used only to apply come-along/escort-compliance holds. A person, who remains non-violent, will not intentionally be struck with the impact tool.
 - 2. If a person forcefully resists and/or attacks an officer or other person, an officer is permitted to strike the person with an impact tool/device, provided the officer uses reasonable care to confine such strikes and power levels, to areas of the body which, if struck, are not intended or likely to cause serious bodily injury.
 - 3. The head and neck shall not be intentionally struck with the impact tool/device, unless the officer is justified in using deadly force.
 - 4. Impact tools/devices shall be maintained in serviceable condition and shall not be modified, altered or fitted with any unauthorized add-on device in any way that is not approved in writing by the Department. They may be marked with the officer's serial number but shall not be marked or adorned in any other fashion.
 - 5. Defective, broken, or altered impact tools shall not be carried.

- (a) An officer who discovers an impact tool/device that is unserviceable must immediately cease carrying the item and, if issued by the Department, promptly submit a written request for replacement through the chain of command.
 - (b) All officers shall receive the designated training on each impact tool or device that they intend to carry before carrying the tool or device on or off duty. The mandatory training will be recorded in the officer's permanent training record. Bureau and District Commanders will insure that the appropriate training is current and documented for all officers under their commands.
- c. Use of Impact Tools or Devices to Apply Deadly Force:
- 1. An impact tool or device is generally used as a "compliance tool" to overcome non-deadly force exercised by a person resisting the officer's authority. However, in certain circumstances the impact tool or device can be properly used to apply greater force up to and including deadly physical force. Refer to CRS 18-1-707(2) for the circumstances under which deadly physical force can be used.
 - 2. Incorrect, reckless or negligent strikes to certain bodily areas may cause unintentional serious bodily injury or death. If not justified to use deadly physical force under 18-1-707(2), this conduct could result in administrative discipline, civil actions or criminal charges against the officer.
 - 3. Examples of reasonable deadly force applications of impact tool or devices include:
 - (a) Controlling a suspect who has disarmed an officer and the officer reasonably believes that the suspect is about to use the firearm against the officer or another.
 - (b) Controlling a suspect who is armed with a knife or other deadly weapon and due to the suspect's close proximity, the officer reasonably believes that the suspect is threatening the officer with imminent death or serious bodily injury.
 - 4. Orcutt Police Nunchaku (OPN)
 - (a) The Orcutt Police Nunchaku is an authorized safety tool primarily used for arrest control and self-defense. Other brands, designs or types of nunchaku are not authorized.
 - (b) Officers must first successfully complete a basic level OPN course authorized by the Denver Police Department prior to carry or use of the OPN in the performance of duties.
 - (c) Officers must successfully complete refresher training as required by the department. Officers failing to re-certify as required shall no longer carry or use the OPN in the performance of duties.
 - (d) If the OPN is used to strike a subject or injury occurs, whether or not an arrest is made, a Use of Force Report is required, in accordance with OMS 105.01(1).
 - 5. Chemical Agent
 - (a) Chemical agents provide an excellent force option in certain situations.
 - (b) Chemical agents may be used when reasonable and justified in the following situation(s):
 - 1. To prevent an injury to an officer or a third person.
 - 2. To ward off threatening dogs and other animals.
 - 3. To subdue a person who is threatening or attempting physical harm to himself or another.
 - 4. Against subjects resisting arrest.