

Interagency Deadly Force Investigations Team

Memorandum of Understanding

In conjunction with the Gilliam County Use of Force Plan, the undersigned agencies believe that an interagency team of investigators that is available to conduct investigations into a use of deadly physical force incident, will result in increased public confidence in the outcome of such investigations. The undersigned agencies are able to contribute high quality investigators to this team, resulting in thorough, fair and professional investigations.

The investigation conducted by the Team is a criminal investigation, to ascertain the presence or absence of criminal activity as a result of the use of deadly physical force by the officer, or to determine the presence of criminal activity by any other person associated with the incident.

Therefore, the undersigned agencies agree as follows:

Team Membership

1. The Team will be supervised by a detective Sergeant from the Oregon State Police.
2. The Sheriff or designated Deputy from Gilliam County will be assigned to the Team, and work in conjunction with the State Police Sergeant, and may assume the Supervising Sergeant responsibilities, as needed.
3. An officer may be assigned from the Condon Police Department.
4. Detectives will be assigned from the Oregon State Police or other designated jurisdictions.
5. Each participating agency with an officer assigned to the Team as set forth in sections 1-4 above, shall also identify back-up investigators, so that a readily identifiable source of additional investigators is available to the Supervising Sergeant. Back-up investigators are not obligated to participate in Team training.

Selection of Members

1. The selection of the members of the Team, or changes to membership, will be made by the Oregon State Police Criminal Lieutenant and the Gilliam County Sheriff, or their designee. Each participating agency will submit the names of potential candidates along with a description of their qualifications that make them suitable for assignment to the Team.

Additional Investigative Resources

1. In all investigations, the Supervising Sergeant shall make sure that at least one officer is assigned to the team from the agency employing the officer involved in the use of deadly physical force.
2. In the event that additional investigative resources are needed, the Supervising Sergeant may call upon any other agencies to provide additional resources.

Supervising Sergeant Responsibilities

1. The Supervising Sergeant is responsible for coordinating the investigation and making assignments to investigators.
2. The Supervising Sergeant is responsible for assigning a Lead Investigator to the case. The Lead Investigator shall not be from the involved officer's agency.
3. The Supervising Sergeant is responsible for ensuring that the investigation complies with the terms of the Gilliam County Deadly Physical Force Plan.
4. The Supervising Sergeant is responsible for briefing the administration of the involved officer's agency and the District Attorney, and for keeping them apprised of the progress of the investigation.
5. The Supervising Sergeant is responsible for ensuring a comprehensive investigation, and presenting the results thereof to the District Attorney.
6. The Supervising Sergeant shall be responsible for briefing persons responsible for the administrative investigation, and if appropriate, allow the administrative investigators access to the crime scene for the purposes of familiarization.

7. The Supervising Sergeant is responsible for notifying the Medical Examiner, in the event of a use of deadly force incident resulting in a death.
8. At the conclusion of the investigation, the Supervising Sergeant is responsible for ensuring the preparation of a casebook to be delivered to the District Attorney for review.
9. The Supervising Sergeant is responsible for establishing minimum training requirements, and ensuring compliance with those requirements by members of the Team.

Member Agency Responsibilities

1. Individual members of the Team remain responsible to respective agencies for conduct, performance, and activities while assigned to the Team.
2. Member agencies are responsible for all expenses associated with the assignment of an investigator to the team, including education and training.
3. When an incident involving the use of deadly physical force by an officer results in death or serious physical injury, the involved officers agency is responsible for notifying the Supervising Sergeant of the incident, and for notifying the District Attorney's Office of the incident.
4. The involved officer's agency shall identify to the Supervising Sergeant and Lead Investigator the investigator or other staff that will be conducting the administrative investigation, if any.
5. The Gilliam County Sheriff's Office shall be responsible for data entry (LEDS, NCIC) regarding any incident investigated by the Team.

Investigative Protocols

1. The investigation conducted by the Team will at all times have priority over any administrative investigation.
2. The Team has the responsibility for the collection and preservation of evidence at the scene. The Supervising Sergeant, in consultation with the District Attorney's Office is authorized to make the decision on whether the crime scene services of the Oregon State Police Crime Lab will be deployed.

- a. The crime scene services unit shall be responsible to the Supervising Sergeant and the Lead Investigator.
3. The Supervising Sergeant is also authorized to make the decision on which agency will be designated to take control of seized evidence. That agency will assign an appropriate person or persons to be designated as the evidence officer.
4. Upon arrival, the Team shall assume control of the incident scene. The Supervising Sergeant is authorized to call upon the resources of any agency to provide crime scene security. Access to the scene will be under the control of the Team. Appropriate records will be kept regarding persons who access the scene. No items will be removed from the scene without the permission of the Supervising Sergeant or Lead Investigator.
5. All original reports shall be submitted to the Supervising Sergeant for approval prior to formal submission to the investigators agency. Copies of all reports will be provided to the Supervising Sergeant and Lead Investigator.

Training

1. Each agency which potentially has an officer assigned to the Team is responsible for arranging training appropriate to the assignment of the officer to investigations involving the use of deadly physical force by law enforcement.

Review

1. The parties to this Agreement shall jointly meet with the Gilliam County Deadly Force Planning Authority, annually on the first Monday in February, or as otherwise needed, to review the operation of this Agreement and the Deadly Physical Force Plan.

Effective Date

1. The investigative responsibilities of the Team become effective upon the final approval of the Gilliam County Deadly Force Plan.

I have reviewed this document and agree to the conditions contained therein. My signature confirms my agency's commitment to participation in the Interagency Deadly Force Investigations Team.

Pat Ashmore, Lt.
Oregon State Police

Date

Gary Bettencourt, Sheriff
Gilliam County Sheriff's Office

Date

William H. Gubser, Officer
Condon Police Department

Date

Oregon State Police



Department of State Police

CHAPTER: 500.8
SUBJECT: USE OF FORCE
REVISED: August 7, 2000
SUPERSEDES: November 12, 1997

POLICY

This Department recognizes and respects the value of each human life. Sworn employees are vested with the lawful authority to use force in preserving the peace. A balancing of all human interests is required. It is the policy of this Department to use the force that is necessary and reasonable to bring an incident under control, while protecting the safety of the officer or other persons.

The use of force by police officers, whether deadly or non-deadly, is frequently closely scrutinized by the media, the criminal justice system, and the citizens we serve. Therefore, sworn employees must be prepared to articulate and justify the reasoning applied when the use of force is necessary. Toward that end, the totality of the circumstances leading to and justifying the use of force must be carefully documented.

Non-sworn employees are not expected to use physical force in the performance of their duties. Should they find themselves in a position requiring the use of physical force, they are to comply with statutes applicable to non-peace officers.

RELATED LAWS/REFERENCES

ORS 161.015, 161.235, 161.239, 161.245 and related statutes; Department Manual Chapters 300.1, 402.2, 402.3, 502.7-502.10

DEFINITIONS

1. **Deadly Physical Force (ORS 161.015)** - "Deadly physical force" means physical force that under the circumstances in which it is used, is readily capable of causing death or serious physical injury.
2. **Non-Deadly Physical Force** - Any use of physical force other than that which is considered deadly physical force.
3. **Physical Force** - Actual physical contact with a person, and/or the use of chemical agents on a person, for the purpose of overcoming resistance to lawful authority.
4. **Physical Injury (ORS 161.015 sub.6)** - Impairment of physical condition or substantial pain.
5. **Serious Physical Injury (ORS 161.015 sub.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.

CHAPTER 500.8

6. Use of Force Incident - Any incident when deadly physical force, non-deadly physical force, or physical force is utilized in the furtherance of the Department's mission. Includes any discharge of a firearm (except to destroy an animal for public safety or humanitarian reasons, or during approved firearms training).
7. Totality of the Circumstances - All factors considered. With respect to use of force, circumstances may include comparative size; physical, emotional and mental condition; skill level of combatants; nature of the offense; weapons; and availability of assistance.
8. Use of physical force in making an arrest or in preventing an escape [ORS 161.235, (in part)].
 - A. A peace officer is justified in using physical force upon another person only when and to the extent the peace officer reasonably believes it necessary:
 1. To make an arrest or to prevent the escape from custody of an arrested person, unless the peace officer knows that the arrest is unlawful; or
 2. For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest, or while preventing or to prevent an escape.

RULES

1. A sworn employee shall only use that force reasonably necessary in the performance of his/her duties in the following circumstances:
 - A. To make the lawful arrest of a person;
 - B. To prevent the escape from custody of a person lawfully arrested;
 - C. In self defense; or
 - D. In the defense of another person.
2. No sworn employee shall use unreasonable or excessive force upon or toward any person.
3. All use of force by sworn employees shall comply with current statute; and Department rules, policies, procedures, and training.
4. The degree of force used shall be the amount necessary to overcome resistance being employed by the person, or the immediate threat the person poses to the sworn employee or other persons.
5. Any force employed shall, whenever feasible, be progressive in nature. Situations may require the officer to proceed directly to a higher level of force as identified in the force continuum guidelines of this policy.

6. Unless other circumstances exist, sworn employees will use only the weapons, tools, techniques and training authorized by the Department.

PROCEDURES

1. Five Step Communications Procedures

- A. Whenever feasible, verbal communication utilizing the tactical five step approach per prescribed Department training guidelines should be adhered to:
 1. Ask (Ethical appeal)
 2. Set context (Reasonable appeal)
 3. Present options (Personal appeal)
 4. Confirm (Practical appeal)
 5. ACT!

2. Progressive Use of Force

Force continuum guidelines - This section sets forth the definitions and progressive levels of the force continuum utilized by the Department.

- A. Officer presence - Compliance is gained through the professional bearing and demeanor exhibited by the officer.
- B. Verbal - Compliance is achieved through tactical communication, i.e., the Five Step Communication Procedure.
- C. Empty hand/Control techniques - Compliance is gained through physical contact utilizing Department trained techniques to overcome resistance.
- D. Chemical agent - Compliance is gained through oleoresin capsicum (o/c) and/or any other Department approved chemical agent.
- E. Strikes and kicks - Compliance is achieved through the use of empty hand strikes and kicks in accordance with prescribed training.
- F. Impact weapons - Use of an impact weapon to gain compliance.
- G. Deadly Physical Force - The use of deadly or dangerous weapons in a manner, degree or to the extent that death or serious physical injury is a reasonable consequence.

3. Use of Deadly Physical Force

- A. Notwithstanding ORS 161.239, a sworn employee may use deadly physical force only when the officer reasonably believes the use of such force is necessary to:
 - 1. Defend the officer or another person from what the officer reasonably believes to be the infliction or threatened infliction of serious physical injury;
 - 2. Apprehend a person who the officer has probable cause to believe has committed, or is committing, a crime involving the infliction of serious physical injury;
 - a. However, where the suspect poses no threat to the officer or others of serious physical harm, the officer is not justified in using deadly physical force; or,
 - 3. Prevent the escape of a person from custody who the officer has probable cause to believe is inflicting, or threatening to inflict, serious physical injury as a means of escape.
- B. Deadly physical force may be used when and if, where feasible, some warning has been given.
- C. "Warning shots" are prohibited.
- D. Discharging a firearm at a motor vehicle constitutes the use of deadly physical force.
- E. When a sworn employee draws his/her firearm, baton, or other weapon as dictated by the totality of the circumstances, that act alone will not be considered "use of force" and does not necessitate notification to a supervisor.
- F. When a firearm is pointed at a person, the immediate supervisor shall be notified as soon as practicable.
- G. In addition to the circumstances previously outlined in this section, sworn employees may also discharge a Department authorized firearm:
 - 1. At Department sanctioned firearms practice or competitive shooting events; and
 - 2. In the destruction of an animal if it poses a threat to public safety or as a humanitarian measure if an animal is seriously ill or injured. (If unusual circumstances exist, i.e., prior intelligence for a search warrant, or an animal of obvious value, prior supervisor approval should be sought if feasible.) In all cases, a supervisor will be notified as soon as practicable.

4. Non-Deadly Use of Force

- A. Sworn employees are provided and authorized to carry and use tools and techniques to gain compliance under circumstances when the use of dangerous or deadly weapons is not justified. Examples of these tools include handcuffs, chemical agents, mini-flashlight and hand control techniques.

1. Use of these and similar tools and techniques are not considered use of dangerous or deadly weapons when the manner, degree or extent in which they are used, would not be expected to result in serious physical injury or death.

5. Training

A. Deadly Weapons (Firearms)

1. Current guidelines in Department policy for firearms training will be strictly adhered to while on duty.

B. Non-Deadly Weapons

1. Current guidelines in Department policy for defensive tactics training will be strictly adhered to while on duty.

- C. Sworn employees shall be instructed in various aspects of verbal and non-verbal communication, officer safety techniques, defensive tactics, and firearms which encompass the prescribed force continuum guidelines.

6. Use of Force Notification

- A. Any sworn employee involved in a "use of force incident" is required to notify his/her immediate supervisor as soon as practicable after the incident.

1. If an officer is represented by the Oregon State Police Officers Association (OSPOA), the employee shall fill out the "Use of Force OSPOA Rights/Supervisory Notification Form" as formal notice that they understand their rights with respect to the use of force delivered.

- a. The Use of Force OSPOA Rights/Supervisory Notification Form is attached to this chapter and may be reproduced.

2. The represented officer's immediate supervisor shall ensure this form is utilized.

3. The original Use of Force OSPOA Rights/Supervisory Notification Form will be retained at the station level.

7. Reporting Use of Force

- A. In circumstances other than those instances provided for in the Officer Involved Shooting or Major Incident Policy, all use of force incidents may be the subject of a supervisory investigation and/or a written report when:

1. Use of force results in an apparent or reported injury;

2. A non-deadly weapon is used on a person (baton, chemical agent) or a strike or blow is delivered to the body;
 3. A firearm is discharged in the furtherance of the Department's mission, except for firearms training or practice; or when necessary to kill an injured animal as discussed in this policy; or
 4. A supervisor deems a report of the use of force is necessary.
- B. A supervisor will review the specific circumstances of the incident and determine if a report to General Headquarters through the chain of command is needed.
1. In all use of force incidents required to be reported, the Use of Force After-Action Report will be utilized.
 2. When the incident is minor in nature and the use of force was justified and the level of force used was the most appropriate, the supervisor should document the facts, and a supervisor's report to Headquarters may not be necessary.
 3. A copy of the Use of Force After-Action Report will be sent to the Office of Professional Standards via District Headquarters.
 - a. When applicable, a copy of the Use of Force OSPOA Rights/Supervisory Notification Form will be attached to the Use of Force After-Action Report.
 - b. The station will maintain the original Use of Force After-Action Report.
8. Department Response
- A. Deadly Physical Force incident
1. The Department's policy on Employee Involved Fatal or Serious Injury Incident will be followed.
- B. Administrative Review
1. All reported use of force incidents will be reviewed at the appropriate Department level of authority to determine:
 - a. If Department rules, policy, or procedures, were followed;
 - b. If the current and relevant rules, policy and procedures were appropriate and effective for the incident; and
 - c. If Department training was, and is, adequate.

2. Findings of rule or policy violations or training inadequacies shall be forwarded to the proper level of authority for appropriate disciplinary action and/or resolution.
3. An annual review and summary analysis of use of force incidents shall be conducted by the Office of Professional Standards.
4. Upon request, the summary shall be made available for public inspection by the Office of Professional Standards.
5. The Training Division will review the annual summary of use of force incidents to determine if training policies and procedures are adequate. The Training Division shall submit a report describing their findings.
6. Use of force reports shall be retained as required by state law.

USE OF FORCE

OSPOA RIGHTS/SUPERVISORY NOTIFICATION FORM

Name of Officer

Name of Citizen

/

ADVICE OF USE OF FORCE RIGHTS

I, _____, understand that I have the right to, and will be allowed to consult with, an Association representative or Association attorney prior to being required to give an oral or written statement about the use of force. Such right to consult with a representative or with counsel shall not unduly delay the giving of a statement.

I DO NOT WAIVE MY RIGHT

WAIVER TO USE OF FORCE RIGHTS

I waive my right to consult with an Association representative or Association attorney prior to giving an oral or written statement about the use of force.

Employee's Signature Date _____ Time _____

Supervisor notified: Date _____ Time _____

Supervisor's Signature _____

cc: Office of Professional Standards
District Headquarters

Brief Narrative

Lined area for the Brief Narrative.

Reviewer Comments

Lined area for Reviewer Comments.

Supervisor	Commission/ BPSST No.	Findings		Signature	Date
		Justified	Not Justified		
Supervisor					

Reviewer	Commission/ BPSST No.	Concur		Signature	Date
		Yes	No		
Station Commander					
District/Division Commander					
Professional Standards Section					
Bureau Commander (when appropriate)					

Gilliam County Sheriff's Office



Use of Force

300.1 PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide deputies of this Office with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each deputy is expected to use these guidelines to make such decisions in a professional, impartial and safe manner.

300.11 PHILOSOPHY

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

Deputies must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to deputies overcoming resistance while engaged in the performance of their duties.

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

300.2 POLICY

It is the policy of the Sheriff's Office that deputies shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the deputy at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that sheriff's deputies are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation.

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

300.21 USE OF FORCE TO EFFECT AN ARREST OR PREVENT AN ESCAPE

Pursuant to Oregon Revised Statutes 161.235, and, except as provided in Oregon Revised Statutes 161.239, a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:

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

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- For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape

It is the policy of this Office that use of force by its members be:

- (a) Justified under applicable state law
- (b) Consistent with the specific policies which follows
- (c) Professionally accomplished according to approved training and with approved equipment
- (d) In all cases employed to accomplish a legitimate tactical objective
- (e) Limited to that degree and duration which the deputies reasonably believes necessary to accomplish that objective
- (f) Applied by the deputy and reviewed by the Sheriff's Office based upon those facts which are reasonably believed by the deputy at the time, applying legal requirements, Office policy, and approved training to those facts. Facts later discovered, but unknown to the deputy at the time, can neither justify nor condemn a deputy's decision to use force.

300.22 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether or not to apply any level of force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- (a) The conduct of the individual being confronted (as reasonably perceived by the deputy at the time)
- (b) Deputy/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of deputies vs. subjects)
- (c) Influence of drugs/alcohol (mental capacity)
- (d) Proximity of weapons
- (e) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the deputy under the circumstances)
- (f) Seriousness of the suspected offense or reason for contact with the individual
- (g) Training and experience of the deputy
- (h) Potential for injury to citizens, deputies and suspects
- (i) Risk of escape
- (j) Other exigent circumstances

It is recognized that deputies are expected to make split-second decisions and that the amount of a deputy's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each deputy is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

300.23 NON-DEADLY FORCE APPLICATIONS

Any application of force that is not reasonably anticipated and intended under the circumstances to create a substantial likelihood of death or very serious injury shall be

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considered non-deadly force. Each deputy is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of deputies and the public. Non-deadly force applications may include but are not limited to leg restraints, control devices and Tasers described in Policy Manual §§ 306, 308 and 309 respectively.

300.24 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Deputies may only apply those pain compliance techniques for which the deputy has received Sheriff's Office approved training and only when the deputy reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Deputies utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to:

- (a) The potential for injury to the deputy(s) or others if the technique is not used
- (b) The potential risk of serious injury to the individual being controlled
- (c) The degree to which the pain compliance technique may be controlled in application according to the level of resistance
- (d) The nature of the offense involved
- (e) The level of resistance of the individual(s) involved
- (f) The need for prompt resolution of the situation
- (g) If time permits (e.g., passive demonstrators), other reasonable alternatives

The application of any pain compliance technique shall be discontinued once the deputy determines that compliance has been achieved.

300.25 CAROTID RESTRAINT

The proper application of the carotid restraint hold by a trained deputy may be effective in quickly restraining a violent individual however due to the potential for injury, the carotid restraint hold may only be applied under the following conditions:

- (a) The deputy shall have received Sheriff's Office approved training in the use and application of the carotid restraint
- (b) The carotid restraint may only be used when the deputy reasonably believes that such a hold appears necessary to prevent serious injury or death to a deputy or other person(s)
- (c) Any individual who has been rendered unconscious by the use of the carotid restraint shall be promptly examined by paramedics or other qualified medical personnel
- (d) Any deputy applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such hold
- (e) The use or attempted use of the carotid restraint shall be thoroughly documented by the deputy in any related reports

300.3 DEADLY FORCE APPLICATIONS

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the deputy reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or serious injury under the circumstances.

Use of deadly force is justified in the following circumstances:

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- (a) A deputy may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an imminent threat of death or serious bodily injury.
- (b) A deputy may use deadly force to stop a fleeing suspect when the deputy has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction, or threatened infliction of serious bodily injury or death, and, the deputy reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, and when feasible, a verbal warning should precede the use of deadly force.

300.4 REPORTING THE USE OF FORCE

Any use of physical force by a member of this Office shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons such as chemical agents may require the completion of additional report forms as specified in Sheriff's Office policy and/or law.

300.41 NOTIFICATION TO SUPERVISORS

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

- (a) The application of force appears to have caused physical injury
- (b) The individual has expressed a complaint of pain
- (c) Any application of a control device
- (d) The individual has been rendered unconscious

300.42 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE

Prior to booking or release, medical assistance shall be obtained for any person(s) who has sustained visible injury, expressed a complaint of significant pain, or who has been rendered unconscious. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another deputy and/or medical personnel. If an audio recording is made of contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain or who require a protracted physical encounter with multiple deputies to bring under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

300.5 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved deputy(s)
- (b) Ensure that any injured parties are examined and treated
- (c) Separately interview the subject(s) upon whom force was applied
- (d) Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas
- (e) Identify any witnesses not already included in related reports

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- (f) Review and approve all related reports

Should the supervisor determine that any application of force was not within policy, a separate internal administrative investigation shall be initiated.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.6 USE OF FORCE REVIEW BOARD

The Sheriff may assemble and convene a Use of Force Review Board to investigate the circumstances surrounding any use of force incident and will designate a member of the Board to serve as chairperson. This board will follow the procedures as outlined in § 302.24.

Deadly Force Review

302.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a process to review the use of deadly force by employees of this Office.

302.2 REVIEW BOARD

The Gilliam County Sheriff's Office is charged with the important responsibility of objectively evaluating the use of deadly force. It is the policy of this Office to convene a Use of Deadly Force Review Board when the use of deadly force by an employee results in injury or death to a person.

The Use of Deadly Force Review Board will also investigate and review the circumstances surrounding every accidental or intentional discharge of a firearm, whether the employee is on or off duty, excluding range training or recreational use.

The Sheriff may convene the Use of Deadly Force Review Board to investigate the circumstances surrounding any use of force incident.

302.21 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board normally would be comprised of the following persons:

- Command representative
- Non-administrative supervisor

The Sheriff will designate a member of the Board to serve as chairperson.

The chairperson will convene the Use of Deadly Force Review Board as necessary. It will be the responsibility of the division or unit commander of the involved employee(s) to notify the appropriate division commander of any incidents requiring board review. The division or unit commander will also ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

302.22 RESPONSIBILITIES OF THE BOARD

The Use of Deadly Force Review Board is empowered to conduct an administrative investigation into the circumstances of an incident. The Board membership may request further investigation, call persons to present information, and may request that the involved employees appear before the Board. The involved employees will be notified of the meeting of the Board and may be represented by legal counsel and/or other representation through all phases of the review process.

Absent an expressed waiver from the employee, no more than two members of the Board may ask questions of the involved employee.

If it appears that the actions of the employee(s) may result in criminal charges or disciplinary action by the Sheriff's Office, the Board will conduct the interviews in accordance with Sheriff's Office disciplinary procedures. The Board does not have the authority to recommend discipline. The Board shall make a finding and such finding will be limited to one of the following:

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- (a) The employee's actions were within Sheriff's Office policy and procedures.
- (b) The employee's actions were in violation of Sheriff's Office policy and procedure.

A finding will be the consensus of the Board. After the board has concluded, the board chairman will submit written findings of the board to the Sheriff. After review by the Sheriff, the Sheriff and the involved employee's sergeant will take appropriate action.

At the conclusion of the review process, a copy of all relevant reports and information will be filed with the Sheriff.

Once the Board has reached its specific finding, the command staff may convene to address training needs and recommendations for this Office without specific reference to the facts of the incident considered by the Board.

302.3 ANNUAL REVIEW

An annual review will be conducted on all use of deadly force incidents.

City of Condon

CHAPTER 13. PHYSICAL FORCE, DEADLY FORCE AND FIREARMS

13.00.00 PURPOSE. The purpose of this policy is to provide officers with a single source of reference on the use of physical force and deadly force. For the purposes of this directive, "deadly force" means the use of a weapon that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

13.01.00 POLICY. All employees who are authorized to carry weapons shall become familiar with the following guidelines and procedures regarding the use of physical force, and the proper use of deadly force, use of firearms and maintenance of firearms, impact and restraint equipment and aerosol subject restraint/Oleoresin Capsicum and Taser X26 electronic restraint devices (ERDs).

13.01.01 CONTINUUM OF FORCE DEFINED. The Continuum of Force is a graphic description of the escalation and de-escalation of force used by Police Department personnel in response to actions taken by a suspect or offender. It serves to illustrate the legal duty of a police officer to use only reasonable force in response to the threat reasonably perceived by the officer.

A. Levels of Force. The Force Continuum is divided into six specific component parts: 1) Threat Assessment, 2) Considerations of Force Escalation, 3) Levels of Resistance, 4) Levels of Force, 5) Justification, and 6) Control Techniques. The above listed component parts are explained in greater detail below.

1. THREAT ASSESSMENT. The term "threat" is used to describe any person capable of causing physical injury, serious physical injury or death. The threat must exhibit the following elements to justify the use of force:

- a. Intent.
- b. Means.
- c. Opportunity.

2. CONSIDERATIONS OF FORCE ESCALATION.

- a. The Totality of the Circumstances.
- b. Has the Threat had the opportunity to comply with your commands, if commands were possible and appropriate.
- c. Determining whether the current course of action is achieving control, compliance, or both.
- d. Determining if the control or compliance of the "Threat" warrants the risk of injury to the deputy and/or the "Threat".

3. LEVELS OF RESISTANCE.

- a. STATIC. The Threat refused to comply with commands by continuing to possess a weapon in a non-threatening way balking, becoming dead weight, or grasping a solid object.
- b. ACTIVE. The Threat physically resists the deputy's verbal commands and/or attempts to gain physical control by pulling away, attempting to run, or powering through a control hold, or holding a weapon when commanded to drop it.
- c. OMINOUS. The Threat demonstrates the willingness to engage in combat through verbal challenge, threats and/or aggressive behavior.
- d. LETHAL. The Threat possesses both the intent and the means to inflict serious physical injury or death. The means can be with a weapon or empty handed. Example: The Threat uses a deadly weapon (handgun, knife, shank) or a dangerous weapon (lead pipe, broken bottle, tire iron) to inflict or attempt serious physical injury. Or the Threat inflicts serious injury through superior size, strength or combative skill.

4. LEVELS OF FORCE.

- a. PRESENCE. The officer has an expectation inappropriate behavior will stop at the officer's arrival in uniform.
- b. VERBAL COMMANDS. The questioning of a subject, the attempt to persuade a subject, or giving a direct order to a subject.
- c. PHYSICAL CONTACT. Directing a subject by touch, or controlling a subject with an escort hold.
- d. CHEMICAL WEAPONS: Involves the deployment of handheld, pressurized devices and/or hand thrown devices that deploy chemical agents to temporarily incapacitate a "Threat(s)" and assists in subduing same or dispersing of mob/rioters. (Only chemicals approved by the Police Chief may be used.)
- e. ERDs (Tasers): Involves deployment of a device utilizing electricity being sent through the "Threat" temporarily incapacitating the "Threat" in order to gain physical control of the "Threat" and/or take them into custody. (Only ERDs approved by the Sheriff may be used.)
- f. CONTROL HOLDS: The officer has the option, if necessary, to use physical control holds in order to control a "Threat", to prevent injury to the "Threat" or the officer. These may include, but are not limited to, joint manipulation, hair-take downs, arm bar take down and, if trained in the proper use, the carotid submission hold. All officers should be trained in the correct application of control holds used.
- g. BATONS: If required, the use of an expandable baton approved by the Police Chief may be used. The officer is to be trained in the proper application of batons prior to their use. In lieu of a baton, an officer is authorized to use any instrument, device or other object (i.e. flashlight, radio, etc.) for defensive purposes. As well officers

are authorized to utilize open palm strikes, knee strikes, and kicks in his/her defense. These defensive measures should be used to strike major muscle masses between joints. Targeting the head or neck of the "Threat" is unauthorized unless escalation to "Deadly Physical Force" is appropriate.

- h. DEADLY PHYSICAL FORCE: (Firearms, Knives, etc.) Using Deadly Physical Force is permitted only: as described in ORS 161.239.

5. BASIC PRINCIPLES OF JUSTIFICATION.

- a. If the level of force is justified, the implement (or delivery system) used is of no significance.
- b. If the level of force is justified, the degree of injury the Threat may sustain is of no significance.
- c. The Threat always dictates the degree of force to be used. Therefore, the Threat is responsible for any injury the Threat may incur while resisting.
- d. It is incumbent on the deputy to overcome the Threat's resistance as quickly as possible to control the Threat and the situation.

6. CONTROL TECHNIQUES. Members should maintain proficiency in the following techniques:

CONTROL HOLDS/TAKE DOWNS: Physical control through application of compliance holds or take downs to control the "Threat" on the ground. Proper use of batons, aerosol weapons, ERDs (electronic restraint devices), i.e., oleoresin capsicum, taser.

- b. RESTRAINTS. Chain or hinge metallic handcuffs, flex ties, leg hobble straps/cords, velcro/nylon restraints. Proper use for cooperative handcuffing (standing) and

uncooperative handcuffing (kneeling/prone)
and high risk handcuffing (felony prone).

- c. SEARCHING. Stop and Frisk, cursory check for weapons, handcuffed standing, kneeling and prone.
- d. BATON. Straight baton and ASP expandable steel baton. Proper use of flashlight as a defensive tool.
- e. BLOCKS, STANCES, AND STRIKES. Closed fist/open hand blocks, interview stance, combat stance, closed fist strikes, open hand strikes, front kick, angle kick, rear kick, knee and elbow strikes.
- f. PERSONAL DEFENSE. Defenses against: body holds, chokes, head lock, grabs and handgun retention and disarming techniques. Proper use of handcuffs as a defensive weapon. Evasive tactics and techniques for knives and other edged weapon threats.
- g. CUSTODY AND TRANSPORTATION. Removal of a Threat from the suspect vehicle, placing of a Threat in a patrol vehicle, and removal of a combatant from a patrol vehicle. Searches of seats after transporting subjects.

B. Procedures. When dealing with suspects and offenders, officers should attempt to apply the Force Continuum, starting at the lowest appropriate level. The mere presence of uniformed Police Department personnel may be enough to control a suspect's actions. Should aggression or resistance escalate, then officers should respond with the level of force appropriate to control the situation. If during a situation suspect resistance de-escalates, then officers should decrease the level of force to an appropriate level to maintain control. If control is lost, the officer must escalate to the level of force necessary to regain and maintain control. It is important to recognize that a situation may require a officer to start at the highest level, or to skip levels due to suspect actions. By properly applying the Continuum

of Force concept, deputies will respond lawfully by using only the force necessary to control a situation.

Levels of force that may be applied and in most situations may be affected by the officer's training, experience, and the information and circumstances known to the deputy at the time. The various levels of force and the circumstances, under which they may be used, beginning with the least and elevating up the scale to deadly physical force, are illustrated on the chart which follows, and are discussed below.

Use of Force Continuum

(BPST Form)

13.01.02 VERBAL COMMAND. In the majority of situations requiring intervention the officer's verbal command is the only force necessary. The officer's tone of voice and attitude, the clarity of directions, and choice of words are factors which bear on the effectiveness of a verbal command.

13.01.03 HAND CONTROL. If the use of a verbal command is not effective, or is not likely to be effective in controlling an individual, a police officer may need to resort to the second level of force which is the use of hand control or an aerosol subject restraint. When using hands or aerosol subject restraint, the officer may only use that force necessary to control the individual. This force may range from a gentle but firm hold of a person's arm to the use of escort/control holds or a Kubotan-type device. Once a person complies, the force used is reduced in proportion to the compliance and is maintained at a level necessary to maintain control. If a officer is unable (or if the officer believes that he/she will be unable) to control a subject by use of hand controls, the officer is justified in using a higher level of force, or prior to making any physical contact, may opt to use an aerosol restraint prior to making actual physical contact where there is a likelihood of injury to the officer or any other person.

13.01.04 AEROSOL SUBJECT RESTRAINT. The use of oleoresin capsicum to subdue a person who is resisting arrest or is otherwise combative is authorized when resistance or threats of violence represents potential escalation of necessary force and deputies fear potential officer should consider that the officer utilizing Oleoresin Capsicum may be affected to a greater degree than the person who is resisting, and that the effect of the Oleoresin Capsicum on a particular person cannot be predicted.

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

The use of the baton is proper to overcome force of resistance to arrest oppression.

All officers are required to carry the Police Department's issued baton provided the officer has satisfactorily completed an approved training session regarding the use of the baton. Related training shall be documented in the officer's training file.

13.01.06 CAROTID CONTROL. The carotid control hold is utilized to overcome aggressive resistance in which a lower level of force is ineffective or inappropriate under the circumstances.

13.01.07 DEADLY PHYSICAL FORCE. No action on the part of a law enforcement officer can have more far-reaching consequences for the officer, Police Department and community than the use of deadly physical force. Use of deadly physical force is documented at length beginning with Policy 13.03.01.

13.02.00 USE OF PHYSICAL FORCE (POLICY). Officers are confronted daily with situations where control must be exercised to effect arrests and to protect the public's safety. Such control may be achieved through advice, warnings, and persuasion or by the use of reasonable force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would be ineffective under the particular circumstances. Officers are permitted to use only that force which the officer reasonably believes is reasonable and necessary to protect others or themselves from bodily harm. The officer's authority to use physical force is provided for under ORS 161.235 and this policy is intended to conform to the provisions of this statute.

13.02.01 REPORTING USE OF PHYSICAL FORCE. Whenever a officer must employ an amount of force capable of causing injury in the course of effecting an arrest, overcoming resistance, or controlling a dangerous situation (assault), appropriate criminal allegations should be charged immediately.

The arresting officer and any other officer notified by a supervisor shall report the use of physical force in the narrative section of a written report when:

- a. Any injury is apparent to either a officer or citizen;
- b. Medical treatment is required or requested;
- c. The force used relates to a criminal charge, i.e., resisting arrest, assault, endangering or harassment.

The incident narrative shall describe the force used. The narrative shall also articulate the facts observed by the officer and the beliefs held by the officer had that lead the officer to decide that the level of force used was justified.

Weapons used, injuries, medical care received, and details of the altercation shall be reported in detail. Witnesses shall be listed. If possible, a copy of medical records shall be attached.

13.02.02 REGULATIONS GOVERNING USE OF PHYSICAL FORCE. The unnecessary or excessive use of physical force against any person is prohibited. In making an arrest, a officer shall use only such force as is reasonably necessary to secure and detain the offender. What may be reasonable force under one set of circumstances may be unreasonable force under a different, though similar, set of circumstances. Only the nature and amount of force reasonably necessary to accomplish a lawful purpose shall be used. In all cases, such use of physical force shall conform to ORS 161.235 regarding the use of physical force in making an arrest or in preventing an escape.

A. "It is the policy of Condon Police Department"

1. Officers shall not use excessive force against any individuals engaged in non-violent civil rights demonstrations, and

2. Applicable state and local laws that prohibit physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction shall be enforced.

13.02.03 FLASHLIGHTS. Officers may carry indestructible type flashlights, designed to serve as a flashlight. Such equipment will be subject to approval by the Police Department. If used as a baton in the absence of an impact weapon, Section 13.02.03 of this shall apply.

13.02.04 AEROSOL SUBJECT RESTRAINTS. Officers may utilize the authorized/department issued oleoresin capsicum aerosol restraint spray following the orientation and training regarding the use, its affects, ingredients, means of delivery and first aid to be administered. Following use of the chemical agent, the subject shall be treated by rinsing the contaminated areas with cool, clean water. Any vehicles or interiors of buildings should be ventilated. Officers must complete a Oleoresin Capsicum Documentation form outlining details of use. Oleoresin Capsicum may be used on animals as a deterrent to aggressive behavior when a deputy reasonably believes that such aggression may cause injury to the deputy or any other person who is present.

Whenever a chemical agent is used, the officer will submit an OCU Report, in the form set forth below:

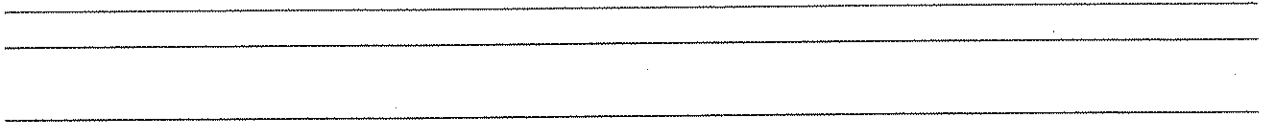
OLEORESIN CAPSICUM USE REPORT

DATE : _____ CASE # _____
TIME : _____
LOCATION : _____
ARRESTEE : _____

DETAILS/SITUATION: _____

EFFECTIVENESS: None _____
 Partial _____
 Very _____
 Completely _____

COMMENTS (Optional) _____



13.02.05 **RESTRAINTS/HANDCUFFS.** Every person taken into custody shall be handcuffed with their hands behind the back, unless such handcuffing is impossible (e.g., an amputee) or impracticable. In such an event, a officer shall use appropriate safeguards to secure the person. These may include the use of flex ties and waist hobbles.

13.02.06 **FOLDING KNIVES AND UTILITY TOOLS.** Officers may carry knives or Leatherman-type utility tools. Officers shall carry such equipment in one or more of the following ways: (1) in a pouch of color, design and material matching the uniform duty belt or (2) in a pant or shirt pocket or (3) concealed elsewhere on their person. All such equipment, whether departmentally supplied or personally owned, must be approved by the Police Department.

13.02.07 **CAROTID RESTRAINT.** A carotid restraint is any physical hold applied to the neck of another person that is:

- A. Intended to inhibit blood flow through the carotid arteries of the neck by exerting pressure, to one or both sides of the neck through the member's use of hands, arms, or any other instrument; or
- B. Intended to inhibit breathing by compressing the airway in the neck, by the member's use of hands, arms, or any other instrument.

Carotid holds constitute deadly force. It is the policy of this Police Department that a carotid hold will not be applied to any person except in the protection of life, for the prevention of serious bodily injury, or in the apprehension of a person who the officer reasonably believes poses a serious danger to the officer or the public.

The Carotid Hold MAY BE used as a controlling maneuver:

1. When other control techniques have failed and it is clear the person may be harmed in an effort to gain control.
2. A person will be rendered unconscious only when the use of deadly force is authorized. ONLY THOSE DEPUTIES TAUGHT THE USE OF "CAROTID HOLD" IN AUTHORIZED TRAINING AND WHOSE SKILLS ARE CURRENT MAY USE SUCH A HOLD. SUCH officers SHALL ALSO BE

CURRENTLY CERTIFIED IN THE USE OF CARDIOPULMONARY RESUSCITATION (CPR).

3. Medical attention by qualified medical personnel shall be sought and administered following an unconscious state which is the result of the application. A use of force report shall be completed whenever the carotid hold is used.

13.02.08 TASER USE OF ELECTRONIC RESTRAINT DEVICES (X26 TASER)

Purpose: To provide officers with guidance on when and how to use ERD's {Tasers X26}. For purposes of this policy, ERD's refer to X26 Taser by the Chief Of Police.

Policy: Consistent with this Condon Police Office's policy of using only that level of force that is necessary to control or otherwise subdue violent or potentially violent "THREATS", the Chief authorizes the use of the X26 Taser Electronic Restraint Device {ERD'S}. The primary purpose of employing the ERD are to save human life. The ERD is a defensive weapon listed in the Continuum of Force at the same level as chemical weapons. The decision to use the ERD is the same as the decision to use approved aerosol weapons: it depends on the actions of the "THREAT" and the critical distance of the "THREAT". Therefore, for example, an officer does not have to get dangerously close to a "THREAT" to try chemical agents before resorting to the ERD's (X26 TASER). It is further authorized as an alternative to employing "Deadly Physical Force" in situations where time and circumstances exist of ERD use.

A. PROCEDURES: ERD's are designed to restrain violent individuals, where alternative tactics have been or are reasonably likely to fail and/or where it would be unsafe for officers to approach "THREAT" to apply restraints or employ other tools/tactics. {i.e. Control holds, baton, etc.}

The ERD fire two darts connected to the device by a fine wire. Once in place, electricity can be discharged into the "THREAT" at the control of the ERD operator. The "THREAT" should normally be immobilized, incapacitated, and dazed by the electricity long enough for officers to apply restraints. No permanent damage is caused by the ERD under normal conditions; however, precautions in its use shall be followed in accordance with provisions of this policy.

B. Deployment:

1. Condon Police Department personnel shall only carry and use ERD's approved by the Police Chief.

2. The Condon Police Department issued ERD's will be assigned and used by only trained officers.

3. ERD's should be in the officers vehicle or worn in an approved holster on the officers person for use in appropriate situations.

*It should be noted that there might be some instances in which the Chief will direct the ERD to be worn on the Officer's person in order to make it more readily available for use. Such instances could be, but are not limited to, prisoner transports and courtroom security.

C. TRAINING:

1. Only officers who have successfully completed the Chief's approved course of instruction on the use of the ERD are authorized to use it.

2. Officers shall receive periodic refresher training in the use of the ERD's.

D. USAGE AND HANDLING:

1. The ERD may be used when other less lethal options have been ineffective or when it appears that such options will be ineffective in subduing the "THREAT".

2. Examples of situations in which the ERD may be used include, but are not limited to the following:

A. Dealing with the mentally ill "THREATS" who are perceived to be violent.

B. Armed "THREATS"

C. Warrant service where the "THREAT" is perceived to be violent.

D. Violent persons under the influence of alcohol and/or drugs.

E. Persons expressing the intent and possessing the means of committing suicide.

F. When deemed a reasonable alternative to lesser force options that will likely be ineffective or greater force options that may be inappropriate given objective circumstances.

G. When it reasonably appears that an attempt to use other less-lethal options would endanger the safety of the "THREAT", officers, or other persons in the area.

3. The ERD should not be pointed at any individual unless the officer involved reasonably believes it will be necessary to use the device. The ERD shall not be used:

A. When the operator cannot, for safety or other reasons approach the subject within effective range.

B. Against an armed "THREAT" when the operator cannot be covered by other officers with "DEADLY PHYSICAL FORCE" [THE ERD X26 TASER] is not a replacement for the firearm and should not be used without firearm back up in those incidents where there is a real threat of "LETHAL FORCE" towards the officers involved in the incident.

C. In proximity of flammable liquids, gases, blasting materials or any other highly combustible materials that may be ignited by use of the device, including, but not limited to any subject who may have been contaminated with combustible liquids.

D. When it is reasonable to believe that incapacitation of the subject may result in serious physical injury or death [i.e. incidents noted in item d-5 and situations where the "THREAT" may fall in such a way to cause serious physical injury or death] unless circumstances authorize the use of physical deadly force.

E. In conjunction with other ERD or any other electrical restraint device that may collectively exceed electrical power levels on the "THREAT".

4. For maximum effectiveness, the ERD should be fired at the "THREATS" center of body mass.

5. In non-DEADLY Physical Force situations, when possible, officers should avoid using the ERD on;

- A. Persons in control of a vehicle
- B. Pregnant women
- C. People with known heart problems
- D. People with apparent debilitating illness or the elderly
- E. Children or those under 80 pounds
- F. Individuals with known neuromuscular disorders such as multiple sclerosis, muscular dystrophy, or epilepsy; or person known to be using pacemakers or other biomedical devices sensitive to electrical current.

6. On occasion it may be needed to utilize the ERD in the drive stun. The drive stun is when the operator uses the ERD by contacting the "THREAT" with the "POSTS" located on the front of the ERD. Once contact is made with the "POSTS" the operator initiates the ERD by pulling the trigger. This sends the electricity through the "POSTS" versus firing the probes into the "THREAT". A drive stun is authorized when and if the probes malfunction and do not fire as they were designed or the probes miss its intended target. It is also authorized if the officer/operator becomes involved in a 'hand to hand' combat situation and must utilize the ERD in an attempt to subdue the "THREAT".

{ "THIS DOES NOT INDICATE IN ANY WAY A 'TOO CLOSE' RANGE TO SHOOT THE PROBE" }

7. ERD cartridges shall not routinely be carried loosely in pockets or similar fashions as static electricity may cause discharge and serious physical injury to the operator or others. All ERD cartridges shall be stored in their shipping boxes or in the device case until deployed for discharge.

8. Probes and cartridges packs used against individuals shall be submitted to the department's evidence and property authority and held in accordance with department's policy on evidence and storage. Probes that have been removed from "THREAT" shall be placed in sharps storage containers and treated in accordance with department policy on handling and storage of biohazards materials.

E. PROBE REMOVAL:

1. ERD PROBES THAT PENETRATE A SUBJECT'S SKIN SHALL BE REMOVED BY THE FOLLOWING GUIDELINE:

- a. The probes should be removed as soon as possible and practical.

b. The officer assigned to remove the probe[s] will use universal precautions and don protective gloves.

c. One hand will be placed approximately 3 to 4 inches from the entry and sight.

d. With the other hand the officer shall take a firm grasp of the probe[s]. The probes shall be removed one at a time.

e. With one motion the officer will remove the probe.

f. The probe[s] should be inspected to insure that it is complete and intact. If the probe[s] is/are found to be broken and a piece of the probe is suspected to be imbedded in the "THREAT", immediate medical attention will be provided. This will be noted in the report.

g. The probes shall be placed in a sharps container and treated with universal precautions per biohazards guidelines.

h. An alcohol swab or disinfectant will be used on the entry sight to disinfect the wound.

2. This policy does not hinder medical or EMS personnel from removing the probes in the course of a medical evaluation or treatment. The operator is still required to follow procedures and collect evidence in accordance with policy.

3. Medical personnel should evaluate "THREATS" complaining of and injuries caused from the ERD as soon as practical.

F. AFTER-ACTION REPORTING

1. Use of the ERD is considered a use of force and is subject to the same reporting requirements as other uses of force governed by policy.

2. With the exception of training, all instances of deployment of the ERD, including accidental discharges, shall be reported following the reporting policy.

3. The reporting officer shall include in the report the serial number of the unit used, the distance from the "THREAT" from which the ERD was fired, locations of the entry of the probes, the effects of the ERD on the subject, and any injuries noted and treatment provided to the "THREAT".

4. The Condon Police Department Taser use report will also be completed and submitted to the Police Chief along with the incident report.

G. MAINTENANCE:

1. Testing and maintenance of the ERDs shall be consistent with manufactures guidelines and recommendations.

2. Cartridges should be stored in a cool, dry environment and should normally be replaced upon reaching the expiration date [generally 5 years].

3. ERDs should not be left in direct sunlight due to the possible adverse effects on plastic parts. ERDs should likewise not be left in non-heated areas of vehicles or otherwise exposed to sub-freezing temperatures, which could degrade battery performance.

13.03.00 USE OF DEADLY PHYSICAL FORCE (POLICY). No action on the part of a law enforcement officer can have more far-reaching consequences than the use of a firearm. As long as members of the public are victims of violent crimes and officers in the performance of their duties can be confronted with life threatening situations, it will remain necessary for the officers to be properly armed for the protection of society and themselves.

Officers are equipped with a firearm to defend themselves and others against deadly force, or threat of imminent deadly force. When a firearm is used by an officer, it must be with the realization that the death of some person may occur.

Officers will not be criticized for the use of deadly force when it is found that such force is justified and necessary based on the facts and circumstances as they reasonably appeared to the officer at the time. Justification for the use of a firearm by an officer is limited to the facts as they reasonably appeared to the officer at the time of the decision to shoot.

The Oregon Revised Statutes cover the Use of Physical Force and Deadly Force. Those dealing with Deadly Physical Force are ORS 161.219 to 161.239. These provide a general framework, and are relevant to the extent they are explained and modified by Tennessee v. Garner. This directive is intended to authorize

the use of force to the extent authorized under the United States Constitution and Oregon law.

13.03.01 GENERAL GUIDELINES GOVERNING USE OF DEADLY FORCE. These guidelines re-state legal principles of justification for the use of force, which are represented by the Use of Force Continuum set forth at Section 13.01.01. Officers shall be directed by the following general guidelines:

- A. Use of Deadly Force. Deadly force will be used only for the protection of life, prevention of serious bodily injury or the apprehension of a person who the deputy reasonably believes poses a serious danger to the officer or the public.
- B. Exhaust Reasonable Means. Reasonable and practical attempts for protection or apprehension will be exhausted before using deadly force. Reasonableness and practicality are to be judged based upon the circumstances which actually exist and are known to the deputy at the time and place the firearm is used.
- C. Safety of Bystanders. Any discharge of a firearm must be done with proper regard for the safety of bystanders or other people in the immediate area.
- D. Deputy/Sheriff Discretion. Even when a officer may be permitted to use deadly force, the officer may refrain from doing so if the officer believes the use of such force is inadvisable under the particular circumstances.
- E. Decision to Display Firearms. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When a officer has determined that the use of deadly force is not necessary, the officer should, as soon as practical, secure or holster the firearm. These judgments are matters committed to the discretion of the officer in each instance. The officer must decide what actions are necessary in order to maintain control.
- F. Justification on Use of Deadly Force. An officer may not use deadly force simply to arrest or prevent the

escape of persons committing a felony crime against property. Example: Deadly force may not be used to apprehend a person fleeing in a stolen vehicle, nor a person fleeing from a Burglary II (typically a commercial establishment), nor a person wanted for felony narcotics offense. The only exception is if any of such felons present immediate threat to the life of an officer or a citizen.

Justification for the use of deadly physical force must be limited to what reasonably appeared to be the facts known or perceived by the officer at the time the officer decided to use deadly physical force. Facts unknown to the officer, no matter how compelling, cannot be considered in later determining whether the officer's action was justified.

13.03.02 SPECIFIC GUIDELINES GOVERNING USE OF DEADLY FORCE. General guidelines are set out above. Officers are directed by the following specific guidelines:

- A. Use of Deadly Force Authorized. A Police Officer is authorized to employ deadly force whenever it appears to the officer that there is no reasonable alternative under the following circumstances:
1. The officer reasonably believes that the use of deadly force is necessary to protect the deputy or any other person from the use or threatened imminent use of deadly physical force;
 2. The officer reasonably believes that the use of deadly physical force is necessary to protect the officer or any other person from death or serious physical injury;
 3. In effecting the arrest or preventing the escape of a person whom the officer reasonably believes committed or attempted to commit a felony involving the use or threatened imminent use of physical force against a person. In such situations, the officer must have a reasonable belief that the use of deadly force is necessary, and all other reasonable alternatives of apprehension or prevention of escape have been exhausted; and

4. If the officer reasonably believes that the suspect committed or attempted to commit a felony, and such felony is non dangerous in that it does not involve the use or threatened imminent use of physical force, the deputy is authorized to employ deadly force to effect an arrest or prevent an escape only if the suspect reasonably poses a significant threat of death or serious physical injury to the officer or others.
 5. Before using deadly force to prevent an escape, if feasible, some warning should be given.
- B. Other Authorized Uses of Firearms. An officer is further authorized to discharge a firearm in the performance of the officer's official duties under the following circumstances with supervisor approval:
1. To kill or deter a dangerous animal or, with permission from an on duty supervisor, to kill an animal so badly injured that it should be destroyed to prevent further suffering.
 2. At a firing range pursuant to all safety rules and regulations.
 3. To provide covering fire an officer may discharge firearms in a tactical situation to neutralize the use of deadly physical force by a suspect or suspects that officers or other persons can maneuver in safety.
- C. Firing from a Moving Vehicle Prohibited. Officers are prohibited from discharging firearms from a moving vehicle.
- D. Signals Prohibited. Use of deadly force is not authorized as a signal or communication method, for reasons related to safety of bystanders. Discharging a firearm is authorized to disarm, to disable and to stop a perpetrator in order to control a situation which constitutes justification for the use of deadly force, not to communicate a warning or signal.

13.04.00 DISCHARGE OF FIREARMS REPORTS AND INVESTIGATION.

- A. Discharge of Firearms Investigation.

1. The Police Department will investigate all incidents in which an officer discharges a firearm while acting in the capacity of a Police Officer, except:
 - a. The discharge of firearms at an approved range target practice or organized shooting matches, or firearms examinations in the furtherance of an investigation;
 - b. The discharge of a firearm for the purpose of killing a dangerous or injured animal as authorized by this directive (a log entry is required, unless in the opinion of the supervisor more documentation is necessary); and
 - c. At the discretion of the Police Chief, where an outside agency may be requested to assist or conduct a firearms investigation.

B. Involved POLICE OFFICER'S Responsibilities.

1. Discharges Generally. Society vests substantial prerogatives in its police. Consequently, every police officer must recognize that a firearms investigation is part of the accountability that is owed to the public. Officers should prepare themselves in advance for the shock of a traumatic incident and the compounding effect of the investigation that follows.

Evidence taken at the scene of or following a deputy involved shooting incident could prove critical as corroborating physical evidence in response to subsequent criticism or litigation.

2. Discharges Within the CITY. Whenever an officer discharges his/her firearms accidentally or intentionally, either on or off duty within the City except under circumstances which are not subject to investigation under Section 13.03.02 (B) (1 and 2), the officer shall immediately:
 - a. Notify the Police Chief and the dispatch center of the incident and location;

- b. Determine the physical condition of any injured person, render first aid when appropriate and request any necessary emergency medical aid;
- c. Protect the scene, save evidence and protect the weapons for appropriate examination. In any deputy involved shooting, it is important that all ammunition casings and the officer's firearm be taken for examination as evidence. Evidence taken at the scene of or following the shooting incident may include powder residue from the officer's body, the officer's clothing and body fluids. Such evidence could prove critical if the officer and the Police Officer is later subject to criticism or litigation, since the physical evidence may tend to corroborate an account of how the incident occurred. The officer's property will be replaced as soon as practical. Officers should prepare themselves in advance for the shock of a traumatic incident, and the compounding affect of the investigation that follows. Every police officer must recognize that becoming subject to a firearms investigation is a consequence of the accountability we must demonstrate as a result of the substantial prerogatives society vests in its police.
- d. As provided in Section 8.04.04, officers involved in significant incidents will detail their actions surrounding the incident in a Special Report prior to leaving work following the incident (unless injured; then the special report shall be completed as soon as practical). The Special Report may be written before or following an interview if one is conducted. In appropriate circumstances, the report may be deferred or tape recorded, or the written report of an investigator who interviews the officer may be substituted, as directed by the supervisor. Supervisors shall review the written report and ensure that all relevant

issues have been addressed. Where a Special Report is found deficient, it shall be returned with direction to cover additional points.

All other involved officers shall also complete written reports of the incident before going off duty. Reports will contain information regarding the weapons involved, number of shots fired, persons involved, injuries or damage, names of witnesses and other pertinent information. The report should specifically state the facts and circumstances of the occurrence and the observations, apprehensions and underlying details, information and beliefs of the officer which justify the shooting.

- e. The officer involved should not discuss the case with anyone except supervisory and assigned investigative personnel until the initial reports are completed. Thereafter, it is advisable to limit discussion to those who can be supportive of the officer during the time of personal trauma and adjustment such as the City Attorney, a chaplain, psychiatrist and psychologist, immediate family or significant others including other officers who have been involved in similar incidents. All officers are encouraged to seek professional help in this period of adjustment, which may extend for a prolonged period of time. Refer to Traumatic Incident Policy 5.31.00.

3. DISCHARGES OUTSIDE THE CITY: Officers who discharge firearms outside the jurisdiction either on or off duty, accidentally or intentionally except as authorized in section 13.03.02(B)(1) and (2) above (or for hunting or target shooting), shall immediately:

- a. Notify the law enforcement agency having jurisdiction and the Condon Police Chief.
- b. Complete reports as directed by the Police Chief.

C. Supervisor Responsibilities.

1. Police Chief or designee shall be responsible for command of the scene and complete initial and preliminary investigation of the incident, including the protection of the scene and of all evidence including the officer's firearm, and all firearms or weapons involved. When possible, the Police Chief/designee shall obtain a brief verbal explanation of what occurred from involved officers in order to be able to guide the on-scene investigation.
2. All unauthorized persons, including officers not required at the scene, will be directed to leave or stay clear of the scene. The scene will be protected until the completion of all investigations. The Police Chief/designee shall complete appropriate reports before going off duty. The ranking officer at the scene shall have the discretion to direct the officer involved to respond to another location.
3. The Police Chief/designee shall notify the District Attorney's office as soon as practical upon learning that a deputy involved shooting has resulted in any injury or death to another person. The assistance of the Oregon State Police Crime Laboratory should be requested.
4. Copies of the Police Chief's/designee's written report shall be submitted to:
 - a. The Police Chief;
 - b. The assigned investigators; and
 - c. The Firearms Incident Review Board.

D. Responsibilities of the Police Chief or the Designee.

1. Administrative Leave. The Police Chief or designee shall, upon completion of the officer's preliminary report of the incident, place on "administrative leave" any officer directly involved in a shooting. This leave shall be without loss of pay or benefits pending the

results of the investigation. The assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly. While on administrative leave, the deputy shall remain available for interviews and statements regarding the incident and shall be subject to recall to duty at any time.

2. Order an Investigation. The Police Chief shall designate a peace officer to investigate the incident.
 - a. The investigator(s) may be appointed from qualified personnel within the Police Department , or the Police Chief may exercise discretion and request that an outside agency assist or conduct the investigation.
 - b. The purpose of the investigation will be to determine whether the officer adhered to State law and Police Department policy in discharging the firearm.
 - c. Copies of the investigation report shall be submitted to the Police Chief and the Firearms Incident Review Board.
3. Review the Investigation. Upon completion of the investigation, the Police Chief may:
 - a. Suspend the officer without pay if criminal charges are filed against the officer;
 - b. Suspend the officer pursuant to Chapter 9 pending further investigation of the matter, when the facts available clearly indicate that the officer may be guilty of misconduct, negligence, or recklessness in the use of or discharge of a firearm;
 - c. Retain the officer on administrative leave pending a final determination by the Firearms Incident Review Board, as provided in Section 13.05.00;
 - d. Direct further investigation.

13.05.00 FIREARMS INCIDENT REVIEW BOARD.

- A. Board Convened. The board may be convened at the direction of the Police Chief following completion of the investigation.
- B. Board's Charge. The Firearms Incident Review Board shall recommend whether or not the use of a firearm was within the parameters of Police Department policy. The Review Board shall not be concerned with penalties for violations of rules, regulations or procedure.
- C. Board Proceedings.
1. The Review Board shall be composed of one officer and 2 designee's appointed by the Police Chief.
 2. All Review Board hearings are confidential and shall be conducted in private.
 3. The Review Board shall consider all reports and information concerning the incident and, if necessary, call witnesses.
 4. The Review Board will develop findings and, if appropriate, make recommendations to the Police Chief in the following areas:
 - a. Tactical considerations,
 - b. Training considerations, and
 - c. Quality of supervision.
 5. The Review Board shall make one of the following findings:
 - a. The discharge was justified under the provisions of this policy.
 - b. The discharge was not justified under the provisions of this policy.
 6. Review Board recommendations will be by majority vote. All findings will be signed by all members of the Review Board, and will indicate whether the Review Board member agreed with or dissented from

the recommendation. The Review Board's recommendations shall be submitted to the Police Chief in a written report.

7. Upon receipt of the Review Board's recommendation the Police Chief may:
 - a. Reinstate the officer to duty if it is determined that the incident was justifiable.
 - b. Request the District Attorney to conduct an inquest of the incident.
 - c. Take disciplinary action if appropriate.

13.06.00 AUTHORIZED FIREARMS. Authorized firearms for use listed in the following categories will be fully loaded with Police Department ammunition, kept clean and in good working order:

- A. **Uniform duty firearms** shall be an approved .40 .45 or 9mm (or .357 for reserves) caliber, double action or automatic, of Smith & Wesson, Colt, Sig Sauer, Glock or Beretta manufacture, double action, with a barrel length of not less than 3 1/2 inches and not more than 5 inches.
- B. **Nonuniform duty firearms** shall be an approved .40 .45, 9mm or .357 caliber, double action or automatic, of Smith & Wesson, Colt, Glock or Sig Sauer manufacture, or other weapon approved by the Police Chief in writing.
- C. **Back-up (secondary) duty firearm** may be carried by officers after the firearm has been authorized by the Police Chief, approved by the Police Department Range master, and the officer has demonstrated proficiency and safety skills to the designated range master. The second firearm shall be totally concealed and carried in a safe and secure manner. It shall not be visible to public scrutiny and shall not be displayed or used except in emergency situations. Firearms will not be carried in a briefcase or other containers by uniformed personnel.
- D. **Individually owned firearms** carried by any officer on or off duty, shall be approved by the Police Chief. Written authorization, make, model, type, caliber and

serial number shall be kept in the officer's personnel file and the firearms record book.

E. **Authorized Shotguns** shall be a 12 gauge pump action (slide action) of Remington, Winchester, Smith & Wesson or Mossberg manufacturer, with a minimum barrel length of 16 inches to a maximum barrel length of 20 inches and have a minimum magazine capacity of four (4) rounds of ammunition. All shotguns shall be loaded and unloaded in a safe and inconspicuous manner. Any shotgun in the possession of an officer will be secured at all times. When the shotgun is in a patrol unit, the operator is responsible for assuring that the weapon is secured. An officer will be assigned by the Range master the responsibility of coordinating the cleaning of shotguns on a periodic basis. Individual officers are responsible for ensuring the assigned shotgun is operable.

F. **AUTHORIZED CARBINES** shall be a colt AR 15 Model 6520 223 caliber, with a barrel length of 16 inches, and a magazine capacity of 20 or 30 rounds of ammunition. All carbines shall be loaded and unloaded in a safe and inconspicuous manner. Any carbine in the possession of an officer will be secured at all times. When the carbine is in a patrol unit, the operator is responsible for assuring that the weapon is secured in the locked gun rack. An officer will be assigned by the range master the responsibility of coordinating the cleaning of carbine on a periodic basis. Individual officers are responsible for ensuring the assigned carbine is operable.

G. Other duty firearms such as carbines, rifles, or special weapons are subject to approval by the Police Chief.

13.06.01 OFF-DUTY WEAPONS/FIREARMS. Off-duty members may carry properly concealed upon his/her person an authorized firearm at all times, except under conditions where such would be socially unacceptable or inappropriate in the judgment of the member. Off-duty weapons/firearms shall meet the following specifications: Any sidearm capable of firing at least five (5) rounds and certified as safe in writing by the Police Department's armorer and properly registered with the Police Department will be authorized for off-duty after the member has qualified on the Police Department course of fire with the weapon.

13.06.02 OFF-DUTY AMMUNITION. Only Police Department approved ammunition will be used in the Police Department authorized off-duty weapon.

13.07.00 AUTHORIZED AMMUNITION. The purpose of ammunition is to stop a person engaged in criminal activity that is causing or is about to cause death or imminent serious physical injury to any person. The Police Department will furnish, on an annual rotation basis, all ammunition carried by employees utilizing a Police Department issued firearm for uniformed personnel. Other than for training or practice, officers shall carry Police Department issued, factory loaded and unaltered ammunition while carrying such a firearm on duty. All officers utilizing other authorized caliber firearms shall furnish, carry and use factory-loaded ammunition approved by the Police Department while carrying such a firearm (other than for training or practice). Range practice ammunition shall be furnished by the Police Department and will be equivalent to duty ammunition. All carbine ammunition shall be provided by the Police Department and will be Winchester Super X centerfire 55 grain SPS factory loaded. Reloaded ammunition is not approved and shall not be carried. All shotgun ammunition shall be provided by the Police Department and will be 12 gauge, 2-3/4 inch factory loaded shot shells containing either #00 buckshot or #0 buckshot. Rifle slug shotgun ammunition will also be available for use; however will not be loaded into the shotgun until needed. Reloaded shotgun ammunition is not approved and shall not be carried.

13.07.01 EXCEPTIONS TO AUTHORIZED FIREARMS/AMMUNITION. Officers may submit in writing requests to carry a firearm or ammunition not covered in this directive; however they must have specific authorization in writing from the Police Chief.

13.07.02 EXTRA DUTY AMMUNITION. All uniformed officers shall carry at least two loaded magazines/speedloaders. All other nonuniformed officers shall carry a minimum of one magazine/speedloader for the authorized firearm. All officers may carry additional authorized shotgun or handgun rounds, as authorized, in their briefcase.

13.08.00 MAINTENANCE OF FIREARMS (POLICY). The maintenance of firearms procedure outlined in this directive shall be utilized to review every incident in which a weapon is misused or discharged by an officer in the line of duty regardless of whether the discharge was accidental or intentional or if anyone was injured.

13.09.00 MAINTENANCE AND CERTIFICATION OF FIREARMS. Each officer shall see that their authorized firearm(s) is maintained in good working order. Certification of these firearms will occur only after a safety inspection of the weapon(s). The following shall apply to all firearms:

- A. The training supervisor is responsible for assuring that all officers comply with this directive.
- B. Serial numbers of all firearms approved for use will be recorded by the Training Supervisor (including personal weapons). Before authorization is given to use or carry firearms in an official capacity, serial numbers of those firearm(s) assigned will be placed in the member's training file.
- C. Officers will exercise the utmost caution while in possession of any firearm and will provide maximum security for all firearms in their custody.
- D. Officers will not place any firearms or other weapons in Police Department facilities, except when the place of storage is locked or under constant personal observation.
- E. Officers shall file a written report with the Police Chief immediately following the theft, loss, sale or replacement of a firearm authorized for use by the Police Department. This report shall include a complete description of such firearm including the serial number and purchaser.
- F. Officers of this Police Department shall not lend, give or sell any firearm to any person, group or organization that does not have the legal right to possess such firearm.
- G. Officers shall not be authorized to use or carry a firearm in an official capacity unless that firearm has been certified for use by the Police Department Range master. Certification will only occur following a complete safety inspection. This inspection will occur on a semiannual basis and will be performed by an authorized armorer. Firearm certification shall become a part of the employee's training file.

- H. Each officer is responsible for the proper care and cleaning of their firearm(s) to insure they are operational at all times. They will be kept clean, operational and loaded to full capacity while carried in an official capacity. All firearms are subject to inspection by the range master, without prior notification. Periodic inspections shall be made by all supervisors responsible for supervising employees authorized to carry firearms. Failure to have firearms in operational order at all times may upon discovery, if the circumstances warrant it, result in disciplinary action being taken against the involved officer.
- I. Officers shall report any damaged or malfunctioning firearms, in writing, to their supervisor. The firearm suspected of having a problem shall be submitted to the armorer for evaluation. All Police Department issued firearms will be adjusted and repaired at office expense. Adjustments and repairs shall be made by the Police Department armorer. All personally owned authorized firearms will be adjusted and repaired at the owner's expense by the Police Department authorized gunsmith.
- J. All authorized firearms shall be inspected by the Police Department range master for proper functioning at least once annually and the results noted in a log book which will be maintained on each firearm, whether office issued or personally owned. All repairs and parts replacements will be similarly noted, including repairs and replacements done to non-issued firearms serviced by an authorized gunsmith. A log book will be maintained by the Police Department Range master.
- K. Officers will not alter or adjust (other than sight alignment) any authorized firearm. Such alteration or adjustment shall be done by the Police Department approved gunsmith.

13.10.00 SHOTGUN, CARBINE ISSUANCE AND INSPECTION. Each Officer going on shift shall obtain a shotgun AND CARBINE prior to beginning patrol. At the end of the shift or other times when the officer is no longer using the vehicle, the shotgun and carbine shall be transferred to another officer or secured.

Each officer shall inspect the shotgun and carbine issued to ensure that it is loaded, clean and in proper working order. An inspection of the shotgun and carbine shall be conducted by the following guidelines:

- A. The shotgun and carbine will be inspected outside of any vehicle and building with ammunition removed from the magazine. The shotgun will be checked to ensure it is empty by opening the action.
- B. The shotgun and carbine will be checked for cleanliness and functioning. No ammunition will be chambered when doing so.
- C. If there is a functional problem with the shotgun or carbine or it needs cleaning, it will be returned to the officer in charge, along with a written explanation of the problem. The officer in charge will then issue the officer another shotgun or carbine if one is available. The officer in charge will then forward the information on the malfunction to the Police Department armorer. The armorer will ensure the shotgun or carbine is repaired before it is returned to service.
- D. After checking the shotgun and carbine the action will be closed and the magazine will be loaded with Police Department approved and issued ammunition.

When the Police Department vehicle is removed from service for maintenance, the shotgun and carbine will be removed from the unit, unloaded and placed in the Police Department armory.

13.10.01 SHOTGUN AND CARBINE RECORDS AND MAINTENANCE. The serial number of each Police Department-owned shotgun and carbine will be entered into a log and kept in file. Each shotgun and carbine will be assigned a control number for accurate accounting.

Each shotgun and carbine will be checked quarterly by the range master or his/her designee to ensure that the shotgun and carbine are clean, being properly cared for, and is functioning properly.

During each Police Department firearms qualification session a minimum of one third of all Police Department shotguns and carbines will be fired to check functional reliability. Any

shotgun or carbine found to be operating improperly will be repaired before being returned to service.

A record will be maintained each time a shotgun and carbine is inspected, cleaned or fired. It will be the RESPONSIBILITY of the range master or his/her designee to ensure that these records are kept up to date.

13.10.02 SHOTGUN AND CARBINE SAFETY. At no time will a shotgun or carbine be loaded while in the Police Department building except when action is required. At no time will a shotgun or carbine be loaded with a live round in the chamber while it is in a Police Department vehicle. The shotgun and carbine will always be pointed in a safe direction or into clearing barrel while loading or unloading.

13.11.00 SPECIAL PURPOSE FIREARMS. The special purpose firearms presently owned by the Police Department fall under the direct control of the Police Chief.

13.12.00 FIREARMS PROFICIENCY AND TRAINING. It is the responsibility of every officer to protect life and property. Inherent in such duty is the legal and moral responsibility for each officer to attain the highest degree of proficiency in their use of firearms. It is the responsibility of the Police Department to require officers are well trained in the handling of firearms as well as laws governing their use.

13.12.01 ANNUAL INSTRUCTION. Every officer who carries a firearm(s) shall receive an appropriate amount of in-service training hours per year on the operation, safety, care, cleaning and proper firing procedure and policy on all assigned firearms. The Training Supervisor shall coordinate such training for all deputies including Reserve Officers which shall include, but not limited to:

- A. A review of the Police Department Firearms Procedure;
- B. A review of the legal aspects of deadly force;
- C. Firearms care and maintenance;
- D. Firearms inspection; and
- E. Training in defensive tactics and officer survival.

Classroom training shall be conducted annually.

13.12.02 DEMONSTRATION OF PROFICIENCY WITH FIREARMS. The following criteria and standards shall apply to all officers authorized to carry firearms:

- A. To minimally qualify with such certified firearm(s) at the time of employment, acquisition or change of duty weapon;
- B. Officers shall not be authorized to use or carry any firearm in an official capacity unless minimum qualification has been demonstrated and documented;
- C. Certification of qualification shall be made in writing by the Range master. This certification shall become a part of the employee's training file;
- D. Failure to achieve minimum qualifications may lead to remedial training and may result in an suspension of duty or termination of employment; and
- E. Minimum qualifications to carry a firearm either on or off-duty will be established by the Rangemaster and will be based on the nature of the course.

13.12.03 FIREARMS RANGE QUALIFICATIONS. Every officer that is authorized to carry a firearm will qualify and participate in live firing exercises with the weapon(s), reloading devices and holster(s), which they carry on or off duty. All range rules shall be strictly adhered to by Police Department members.

- A. Duty Firearm. Every authorized officer shall minimally qualify with their duty firearm during each quarter.
- B. Off-Duty Firearm. Every authorized officer shall minimally qualify two times a year with each off-duty firearm.
- C. Shotgun-CARBINE Every authorized officer shall minimally qualify annually on the use of a Police Department shotgun and carbine
- D. Other POLICE DEPARTMENT Weapons. Each authorized OFFICER shall fire and familiarize him/herself with all other firearms in the office armory as scheduled by the a supervisor or his/her designee.

- E. Ammunition. Ammunition for mandatory qualifications will be furnished by the Police Department for Police Departments issued weapons.
- F. Shotgun-Carbine Familiarization. Officers who have access to shotguns during their normal course of duty will fire a shotgun, carbine familiarization course.
- G. Notification. Whenever possible, a minimum of two weeks' written notice will proceed the mandatory qualification and course to be fired.
- H. Course of Fire And Targets. These shall be determined by the rangemaster.
- I. Make-up. Officers unable to participate in a regularly scheduled mandatory qualification will give written notice in advance to their supervisor explaining the reason for their absence. This notice will be reviewed by the supervisor and forwarded to the Police Chief. If the absence is excused, the Officer will be rescheduled for a make-up.
- J. Record Of Training. Record of all training, notices, excuses and make-ups will be maintained by the Police Department. Appropriate documentation will be placed in the individual officer's training file.

13.12.04 QUALIFICATION. Every officer must achieve minimum proficiency qualification in the prescribed time in order to carry a firearm. Minimum proficiency is a condition of employment for officers who must carry a firearm in the performance of their duties. It will be noted in the officer's training record as "Pass."

13.12.05 FAILURE TO QUALIFY. The training supervisor will notify the Police Chief of any officer failing to achieve the minimum qualifying score. Any officer unable to achieve the minimum qualifying score required will be assigned additional training within 30 days. The failure to achieve or repeated failure to achieve a minimum qualifying score may be deemed cause for suspension of authorization to carry a weapon, and discipline up to and including termination of employment.

13.12.06 EXCEPTIONS. When personnel who are authorized to carry a firearm are temporarily disabled and require rehabilitative training and are unable to participate in scheduled firearms qualifications, they shall submit a

memorandum to the office of the Police Chief explaining the nature of the disability and requesting a waiver to the qualification requirement until such time as they are again physically capable of qualifying.

13.13.00 FIREARMS RANGE RULES. The following rules shall apply when utilizing the facilities and an approved firearms range:

- A. No firearm shall be discharged at the range without the red warning flag being displayed on the warning pole.
- B. No officer shall discharge a firearm at the range except during scheduled qualifications, organized shoots or without the approval of the rangemaster and/or their supervisor.
- C. All firearms will be unloaded upon arrival at the range and shall be done in a safe manner. Firearms shall be loaded only upon the command of the rangemaster or the officer in charge of the range.
- D. All officers attending the range shall follow the direction and commands of the rangemaster at all times.
- E. It shall be the discretion of the rangemaster as to the value of the bullet strike on the target and the rangemaster's decision shall be final.
- F. It shall be the discretion of the rangemaster as to the scoring of alibi rounds during qualification.
- G. The following safety rules shall apply at all times with NO EXCEPTIONS:
 - 1. Treat all firearms as though they are loaded.
 - 2. Strictest discipline must be maintained. Carelessness cannot and will not be tolerated during firearms training.
 - 3. Immediately on picking up a firearm, open the cylinder or action to check to see that it is unloaded, then check it again.
 - 4. Never give a firearm to or take a firearm from anyone unless the cylinder or action is open.

5. Never anticipate a command.
6. No loaded firearms on the range except on command.
7. Be sure there is no obstruction in the barrel of a firearm before loading.
8. Load only after position is taken at the firing point and the command to load is given.
9. All firearms shall be kept holstered or pointed down range at all times except on command.
10. Unload when and as instructed.
11. Never draw a weapon from the holster or re-holster with the finger in the trigger guard.
12. No smoking on the firing line.
13. No talking on the firing line or to shooters on the firing line, except by instructors.
14. Never permit the muzzle of a firearm to touch the ground.
15. Never let the hammer of a semi-auto weapon down on a live cartridge without placing the thumb in front of the hammer and releasing the trigger, or using the hammer drop lever.
16. In case of a misfire, keep the firearm pointed downrange at least ten seconds before opening the cylinder or action. The cylinder or action should not be opened prior to notifying the Rangemaster.
17. Never fire a succeeding shot after a malfunction without first unloading and receiving permission from the Rangemaster.
18. Never leave the firing point without first unloading your firearm and receiving permission from the Rangemaster.

19. Never go in front of the line of fire unless the firing line has been cleared and the command is given to go forward.
20. No "Dry Fire" unless approved by the Rangemaster.
21. Pay strict attention to the rangemaster. The Rangemaster will instruct you as to exactly what you are to do.
22. Be sure of your target before you pull the trigger.
23. Alcohol and firearms do not mix. No deputy will participate in range activities after having recently consumed an alcoholic beverage or medication that may alter normal body responses.

Any deputy recently taking medication will bring this to the attention of the Rangemaster in charge prior to engaging in the range activities. No alcoholic beverages will be allowed on the range and any deputy showing signs of alcoholic consumption will be immediately relieved of duty and subject to disciplinary action.

24. Protective ear covers or plugs will be worn.
25. All firearms cleaned or repaired at the range shall be done in a designated area as determined by the Rangemaster.
26. Any officer found to violate any safety rule shall be immediately suspended from the range at the discretion of the rangemaster and a written report of action taken forwarded to the Police Chief.
27. In the event an officer should experience a malfunction of their firearm while attending the range, they shall raise their hand and await the command of the Rangemaster.
28. If any officer attending the range does not fully understand any direction or command of the Rangemaster, they shall immediately raise their hand and request the direction or command be clarified.

13.14.00 SECURITY OF FIREARMS. All firearms not under the immediate personal supervision of an officer shall be securely located in the Police Department armory or other secure area.

- A. Security of Duty and Off-Duty Firearms. Officers shall retain control of their firearms at all times. When entering a jail or processing prisoners, firearms shall be locked in a secure area or office gun locker. Particular care shall be exercised in safely storing firearms while off duty to insure they are not accessible to young children.
- B. Shotguns-Carbines Whenever possible a pre-service check prior to beginning every shift shall be conducted by every officer to assure him/herself that the shotgun and carbine in their patrol unit is clear, fully loaded and secured.
- C. Shotgun-Carbine Safety. Shotguns and carbines are provided to insure additional fire power in the event of a suspected or apparent armed resistance and shall not be used as general duty firearms. Rounds will not be carried in the chamber until such time that it becomes obvious or there is a potential danger of making contact with a dangerous individual.
- D. CARBINE Electric Lock Rack. The rack will be unlocked only when the carbine is to be removed from the patrol unit in preparation for authorized use, cleaning or storage.
- E. Custody of carbine. Carbines released from the electric lock rack shall be removed from the patrol units being serviced or repaired (other than at the City shops) or while the vehicle is disabled.
- F. Security of Firearms. The Police Chief shall insure that the Police Department armory is secure at all times.

13.15.00 RESPONSIBILITIES OF OFFICERS. It is the general responsibility of each officer authorized to use weapons to be familiar with the contents herein and to insure compliance. Officers shall report noncompliance and inconsistencies to the Police Chief in writing. The authorized training supervisor has a specific responsibility to thoroughly review this section, at least annually, to insure compliance and to insure that the section reflects the current state law and recent court

decisions regarding the use of firearms and deadly physical force. Noncompliance and/or recommended changes shall be made in writing to the Police Chief.

13.16.00 SPECIAL RESPONSIBILITIES OF TRAINING SUPERVISOR.

Special responsibilities will include the following:

- A. Maintenance of accurate and current records regarding:
 - 1. Firearms proficiency and qualifications of each officer required to carry a firearm;
 - 2. Weapons inspection records for all authorized on and off-duty service weapons including brand, model, barrel length, caliber and serial number;
 - 3. Repairs of all Police Department owned firearms; and
 - 4. Ensure adequate supplies are available for all firearms training.
- B. Serve as advisor to Police Department staff in reference to firearm needs of the Police Department.
- C. Initiate and coordinate firearms training in conjunction with Sheriff's Office Rangemaster.