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Culture

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- Recommendation #1 Conduct a culture audit of the SPD,
- Recommendation #2 Bring greater transparency to the City's negotiations with the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association.
- Recommendation #3 Rewrite the SPD Mission Statement.
- Recommendation #4 The SPD should secure WASPC accreditation.
- Recommendation #5 Ensure corporate ownership of the SPD Policy Manual.
- Recommendation #6 Explicitly link SPD Canons and Ethical Standards to hiring decisions and all force management actions.

SPD Policies and Practices

- Recommendation #7 The Chief of Police and his command staff should actively engage the community in an ongoing dialogue about the department.
- Recommendation #8 Ensure complete understanding of the governing legal standards for the use of force.
- Recommendation #9 Update and maintain certifications of the department's defensive tactics instructors.
- Recommendation #10 Review current officer staffing levels and practices to ensure that sufficient patrol officers are available to maintain public safety.
- Recommendation #11 Improve training plans and practices.
- Recommendation #12 Establish a continuing Crisis Intervention Training program and adopt protocols for the deployment of CIT officers.
- Recommendation #13 Affirm the de-escalation of potentially violent encounters as a primary goal of the department.
- Recommendation #14 Improve the use of force reporting system.
- Recommendation #15 Improve investigation practices in use of force incidents.

- Recommendation #16 Improve the administrative review of the use of deadly force by officers.
- Recommendation #17 Create and deploy a fully developed Early Intervention System.
- Recommendation #18 Equip officers with body cameras.
- Recommendation #19 Explore standardizing the weapons carried by officers in the line of duty.

Citizen Oversight

- Recommendation #20 Invest the Office of the Police Ombudsman with the authority and discretion to open and conduct independent investigations concerning the operations, actions, or omissions of the SPD.
- Recommendation #21a All City employees and those acting on behalf of the City should be required to cooperate fully and truthfully with the Office of the Police
- Ombudsman.
- Recommendation #21b Subject to legal privilege, the Office of the Police Ombudsman should be given full, unrestricted, and complete access to any and all City information, files, evidence, or other material which the Ombudsman deems necessary to the performance of his/her duties.
- Recommendation #22 Create a Citizen Advisory Board for the Office of the Police Ombudsman.

City Administration

- Recommendation #23 The Mayor should maintain an active and visible role in SPD oversight and administration, and in promoting the department to the community.
- Recommendation #24 The City Attorney's Office should maintain separation of duties and functions between litigation support, employment law representation, and police legal advising.
- Recommendation #25 The CAO should adopt strict policies and procedures that ensure the office maintains appropriate distance from all criminal prosecutions of SPD personnel.
- Recommendation #26 The CAO should take an active role in the development and updating of the SPD's use of force policies, and the department's use of force training materials and program.



Policies & Procedures



Spokane Police Department Use of Force Commission RECOMMENDATION PROGRESS

13. Violent Affirm the De-escalation of Potentially Violent Encounters as a Primary Goal of the Department

scheduled

- SPD Academy Director, Lead Defensive Tactics Instructor and Lead Firearms Instructor Attended De-escalation Training
- All Commissioned Members of Department will Complete De-escalation Training (2014)

14. Improve Use of Force Reporting System

not started

- Internal Affairs (IA) Software Purchased and implemented to Document all Use of Force Incidents and IA Investigations
- Posted Results of Completed Use of Force and IA Investigations Online at SpokanePolice.org
- Revised Investigative Techniques Used During all IA Investigations
- Expanded Reporting of Use of Force Incidents to Include Those in Which Police Officer Points his/her Weapon at Someone
- Implement COPS Technical Assistance Project Recommendations

Improve Investigative Practices in Use of Force 15. Incidents

- Accomplished Use of Force Investigative Training
 - Responding to Officer Involved Shootings
 - Internal Affairs Investigations
 - Managing Use of Force Incidents
- Implement COPS Technical Assistance Project Recommendations

16. Improve the Administrative Review of the Use of Deadly Force by Officers

- Implement COPS Technical Assistance Project Recommendations
- Continued Review of Spokane Incident Regional Response (SIRR) Team Investigations and Deadly Force Review Board (DFRB) Practices and Findings
- Include Ombudsman in all Future DFRB Reviews

17. Create and Deploy a Fully Developed Early Intervention System

- Purchased Early Intervention Software
- Develop Policies and Procedures for Use of Early
 Intervention System
- Research Use of Progressive Disciplinary Process

18. Equip Officers with Body Cameras

- Vendor Selected (Contract to be Awarded Fall 2013)
- Develop Policies and Procedures in Conjunction with City Legal, Guild, ACLU, Center for Justice, and Other Interest Groups
- Participate in National Best Practices Conference Regarding Police Use of Body Cameras
- Host Public Forums to Ensure the Community Fully Understands the Equipment, its Use and Record Retention Policies and Procedures

19. Explore Standardizing the Weapons Carried by Officers in the Line of Duty

- All Firearms Issued and Deployed by Commissioned Officers Must be Authorized by Chief of Police and Lead Firearms Instructor
- All Officers Must Qualify with Duty Approved and Off-duty Firearms
- Purchase and Issue Single Model of the Taser (Electronic Control Devises)
- Purchase and Issue Single Model of Collapsible Batons



Use of Force

Supporting Documentation:

De-escalation Training

Purpose:

Training officers how to de-escalate potentially violent encounters is a primary goal of the Spokane Police Department

Effective communication in the midst of stress

VERBAL DEFENSE & INFLUENCE

PREVENT CONFLICT REDUCE EMOTIONAL/PHYSICAL VIOLENCE IMPROVE COOPERATION AND COLLABORATION LOWER CUSTOMER COMPLAINTS AVOID LITIGATION

Verbal Defense & Influence

Everyone benefits when your employees know how to communicate effectively under pressure

How to learn Verbai Defense & Influence:

Read the works of Dr. George Thompson

Attend a keynote speech or one-day workshop

Purchase an online or DVD training program

come a certified Verbal Defense & Influence practitioner

Contract with us to deliver a custom training program

Certify internal facilitators/instructors to train your employees

We have used Verbal Defense & Influence for over a decade to train our mental health care teams about de-escalation of verbal conflict through the strategic use of words and actions. It works! - Judy Weaver, R.N. Director of Staff Education Colorado Mental Health Institute Of Pueblo

Verbal Defense & Influence is a scientific approach to 'talk' someone down, Proven across the decades, this methodology is one of the most well demonstrated and effective tools for any communication tool box...

- Lt. Col Dave Grossman Expert in field of human aggression

Consider the complexity of interacting with another person:

- You must function as both the giver and receiver of information
- · Interactions encompass verbal, written and physical messages
- There's a wide range of purposes (e.g., info-sharing/gathering, compliance, relationship building, selling, buying, enforcement)
- Expectations differ depending on the nature of the interaction (e.g., work-related, personal, private, public)
- Your familiarity with the person ranges from close family member to total stranger
- · You must deal with disparities of race, culture, gender, religion and age
- Interactions occur in a range of locations (at work, at home, at the mall, etc.)

Despite this complexity, most of the time people are functional communicators.

The problem occurs when stress is present during communications – a widespread and inescapable occurrence -- which can lead to emotional and physical violence. There are four universal triggers to such conflict:

- **Personal Stress** (such as relationship difficulties, financial problems, work demands, physical threats, job insecurity), which heightens the risk of conflict
- Indignity (treating others badly with insults, put-downs and humiliation) which can provoke retaliation
- Bystander Inaction (by peers or persons of authority) which leaves victims of violence to fend for themselves
- Victim Mindset (perceived as less-than by others), which can result in vulnerability to coming the target of violence by bullies

When these triggers are present the results are often disastrous. Decent and well-trained employees can end up saying and doing things that destroy reputations, profits, jobs, relationships and even lives.

Verbal Defense & Influence trains people how to communicate effectively in the midst of stress.

The goal of this training is to prevent conflict and retaliation from happening and, when that's not possible, to enable de-escalation of the situation and a reduced risk of emotional and physical violence.



The Verbal Defense & Influence structured communication methodology has broad applications

tress's negative influence on communications is pervasive and, as a result, Verbal Defense & Influence training is broadly applicable.



Within organizations it's vital for anyone having direct client contact (e.g., customer service personnel, healthcare workers, educators, public safety professionals, sales representatives, management) to increase the likelihood of positive outcomes and reduce complaints.

If all personnel are trained, the work environment improves and the threat of litigation is greatly reduced.

Outside of work, employees benefit in their personal lives by having the necessary skills to address verbal abuse and harassment, maintain their emotional safety in dealing with others and even help their children manage bullying – all resulting in their enhanced productivity during work hours.

Verbal Defense & Influence training is an essential addition to any organization's riskmanagement efforts (e.g., diversity, ethics, conflict resolution training) to prevent problems from arising when employees communicate in the midst of stress.

Verbal Defense & Influence Methodology Framework



FIVE UNIVERSAL TRUTHS

Regardless of differences in race culture, gender, religion or age, all people want to be:

Treated with dignity and shown respect Asked - rather than told - to do something Told why they are being asked Offered options, not threats Given a second chance



Verbat Defense & Influence provides the foundation for any truly effective police communication program, in providing expert testimony on use-of-force for over 30 years, i can definitively state that communication skills are a major factor for almost all effective uses of force. - Bill Lewinski, Ph.D.

Director, Force Science Research Center

Verbal Defense & Influence teaches:

The best way to make an initial contact

The inadequacy of active listening

Your three options when conflict arises

How to redirect behavior with words

How to generate voluntary compliance

When it's necessary to stop talking and take action

How to intervene before bad things happen

The "showtime" mindset

The keys to a respectful work environment

> How to deal with difficult people

How to remain in control during conflict

The necessity of treating people with dignity

Five universal truths of human interaction

What to do when words alone fail

Prevent the destruction of reputations, profits, jobs, relationships and even lives with this methodology for communicating under pressure

The Verbal Defense & Influence methodology is an essential skill It completes the balanced package of necessary survival skills for those required to have a continuum of expertise in resolving confrontational situations.

Kevin M. Gilmartin, Ph.D. Author, Emotional Survival

The core principles of the Verbal Defense & Influence communication methodology are essential for raining students, faculty, and ministrators how to safely and ectfully resolve potentially erous situations - Jill Weisensel

Marquette University, Milwaukee, WI

The purpose of this training is not to change the behavior of others, but to change our behavior when but to change our our of the second we interact with them. - Brenda Bowers

St. Michael's Hospital

Verbal Defense & Influence trains on how to use some of the most powerful ammunition available: the right words at the right times. This training is not some academic's pipe dream. It's realistic and proven control tactics, born of the streets and tested where lives are on the line - Chuck Remsberg Co-founder, Street Survival Seminar

Verbal Defense & Influence is a member of the Vistelar Group, a global speaking and training organization focused on addressing the spectrum of human conflict - from interpersonal discord, verbal abuse and bullying - to crisis communications, assault and physical violence.



www.Vistelar.com

Benefits of Verbal Defense & Influence training

- Reduced interpersonal conflict
- Increased safety
- Better cooperation and collaboration
- Fewer complaints from customers
- Reduced risk of litigation



Verbal Defense & Influence is grounded in the communications methodology developed by the late Dr. George Thompson of the Verbal Judo Institute.

Previously known as Tactical Communications, this street-tested, proven and continually enhanced methodology for communicating under pressure has been taught to over 1 million individuals worldwide since 1983. It is the subject of four books written by Dr. Thompson. The most popular - Verbal Judo: The Gentle Art of Persuasion - initially published in 1993, continues to be a best seller with over 300,000 copies sold.

Verbal Defense & Influence uses Performance-Driven Instruction[™], a unique approach to training that emphasizes student interaction, real-world simulations, skill practice, memorable stories and physical activity.

There is a reason we do fire **drills** instead of fire **talks**

This approach - which minimizes the use of traditional lecture - improves retention of the taught material and enhances the student's ability to effectively perform the learned skills in their work and personal lives.

The goal of Verbal Defense & Influence training is to build the knowledge, skills and desire to be a more effective communicator in the midst of stress.

Please contact us to learn more about our methodology for communicating effectively in the midst of stress:

Visit: www.VerbalDefenseAndInfluence.com

Call: 877-690-8230

Email: info@VerbalDefenseAndInfluence.com



10532 N. Port Washington Rd. Meauon, WI 53092 Phone: 877-690-8230 Fax: 866-406-2374

Emotional & Physical Violence: Understand • Manage • Prevent

Vistelar Group is a global speaking and training organization focused on addressing the spectrum of human conflict – from interpersonal discord, verbal abuse and bullying – to crisis communications, assault and physical violence.

Our clients include public safety agencies, schools, social services, hospitals, businesses, and government agencies – as well as individuals wanting to enhance their emotional and physical safety, interpersonal skills and self-confidence.

Vistelar Group's subject matter experts have been actively involved with the prevention and management of violence for over three decades – both in their jobs – and as professional instructors to a wide range of audiences.

Drawing on this collective experience as well as academic research, Vistelar Group has developed a **framework for understanding the cause of violence and a comprehensive**, **structured methodology for preventing and managing it** – which are represented in a series of graphics.

This first graphic outlines the causes of emotional and physical violence.

The bars on the left and right reference the risk and protective factors described by the Center For Disease Control (http://1.usa.gov/k9XiM).

Then, in the center, the four universal triggers of violence are listed:

- 1. **Personal Stress** (such as relationship difficulties, financial problems, work demands, physical threats, job insecurity), which heightens the risk of conflict.
- 2. **Indignity** (treating others badly with insults, put-downs and humiliation), which can provoke retaliation.
- 3. **Bystander Inaction** (by peers or persons of authority), which leaves victims of violence to fend for themselves.
- <section-header><section-header><section-header><section-header><section-header><section-header><section-header><section-header><text><text><text><text><text><text>
- Victim Mindset (perceived as less-than by others), which can result in vulnerability to becoming the target of violence by bullies.

Addressing the four universal triggers of emotional and physical violence

Emerging from Vistelar Group's framework for understanding the cause of emotional and physical violence is a comprehensive, structured methodology for preventing and managing it – which consists of five components:

- Communicating Under Pressure to address the violence trigger of personal stress.
- CURE for Indignity to address the violence trigger of insults, put-downs and humiliation.
- Bystander Mobilization to address the violence trigger of bystander inaction.
- Personal Power to address the violence trigger of having a victim mindset.
- Personal Defense Options to deal with situations of impending violence when words alone fail.

These five components are represented in the graphs below.

Communicating Under Pressure

The bars on the left and right of this graphic reference the starting point for all interactions in which there is a risk of conflict. It's essential to be alert and quick to decide a course of action, if things go bad. And, with whatever happens, a thoughtful response is necessary – ideally one that is pre-planned and practiced – rather than an impulsive reaction.

The methods in the top half of the graph prevent conflict (non-escalatory) and those in the bottom half address conflict once it occurs (de-escalatory).

• Five Universal Truths and "Showtime" Mindset, represent a philosophy about interacting with



others that is critical to minimizing the potential for conflict.

- Universal Greeting is a multi-step sequence for preventing conflict during an initial contact.
- **Beyond Listening** is an easy-to-remember process for gaining a deep understanding of another's viewpoint or sharing your viewpoint in a non-escalatory way.
- Redirections are simple tactics for closing down verbal abuse.
- Persuasion Sequence is a five-step communication process for gaining compliance, cooperation and collaboration when conflict occurs.



CURE For Indignity

Dignity is a basic human right to be shown respect to which all people are entitled. When it's violated, strong emotions arise, often with negative outcomes. If people just treated each other right, much violence could be prevented.

This graphic outlines the critical elements for treating people right based on having a "Preserve Their Dignity" Mindset.

The CURE acronym is explained and five principles for treating people right are listed. These principles apply to all interactions, regardless of differences in culture, gender, religion or age.

Bystander Mobilization

Bystanders can play a critical role in preventing and de-escalating violence – if they are motivated to get involved.

This graphic describes the components of Vistelar Group's training program to nobilize bystanders to adopt a "Protector" inindset and stand up for others.

Bystanders need to be taught how to take and give perspective and do an assessment if there is a need to act and if it is safe to act. Then, they need to learn the steps for protecting others from violence and their two options for intervention (which are detailed in the respective graphics).





Personal Power

People who are perceived as less-than by others are more vulnerable to becoming the target of violence by bullies.

This graphic outlines the components of Vistelar Group's training program to develop personal power – a healthly level of assertiveness – and become "bully proof."

Key principles and specific tactics are listed for accomplishing this, which include the elements of Communicating Under Pressure on the previous page.

COLOR CODE: YELLOW - relaxed but alert ORANGE - alert and decisive RED - when words alone fail

How to deal with situations when words alone fail

Personal Defense Options

The first four components of Vistelar Group's structured methodology for preventing and managing emotional and physical violence have proven effectiveness.

However, there are situations where they don't always work – which is represented by "When Words Alone Fail" in two of the other graphics.

In these situations, taking action is required. This graphic outlines the components of Vistelar Group's training program on how to maximize personal safety and defend one's self, if attacked.



Vistelar Group is a global speaking and training organization focused on addressing the spectrum of human conflict – from interpersonal discord, verbal abuse and bullying – to crisis communications, assault and physical violence.

This brochure describes Vistelar Group's framework for understanding the cause of violence and its comprehensive, structured methodology for preventing and managing it – which are the foundation of all Vistelar Group's training programs.

Please contact us to learn more about our training programs on how to talk and act effectively in the midst of stress:

Visit: www.Vistelar.com

Call: 877-690-8230

Email: info@vistelar.com



10532 N. Port Washington Rd. Mequon, WI 53092 Phone: 877-690-8230 Fax: 866-406-2374

Instructor Certification Course

Course Description:

This five day instructor certification program is specifically designed for instructor development in teaching the Verbal Defense and Influence (VJ&I). It models and teaches the program and assesses participants' abilities to teach the program. Verbal Defense and Influence is the updated version of the original Verbal Judo training program developed by Dr. George Thompson. The program moves away from a lecture format to a more interactive, experiential, and learner-centered approach using scenario-based instruction to build on the knowledge and experiences of the participants and making extensive use of duty videotapes and training scenario videos. The program trains participants to manage verbal abuse, develop effective initial contacts, generate voluntary compliance when dealing with verbal resistance, de-escalate physical confrontation through the use of effective verbal commands, and debrief the subject after the incident to prevent future incidents. The program also emphasizes the ethical components of intervention to change behavior.

Participant Learning Outcomes

Participants will:

- Describe the difference between traditional training and performance training
- Analyze videos and scenarios to identify effective responses to situations where behavior changes are required
- Describe the Verbal Defense and Influence approach to changing behavior
- Demonstrate the ability to do performance instruction
- Discuss the goals of professionalism to include the 3 C's
- Apply the L.E.A.PS. S.A.F.E.R. 8 to 5 concepts orally and in video-taped demonstrations
- Create and perform a Peace Stories demonstration
- Describe the purposes and advantages of reflective debriefing over direct feedback
- Participate in and/or conduct a reflective debriefing
- Demonstrate questioning that precipitates critical thinking and problem solving
- Discuss/Demonstrate how the Five Universal Truths translate in to the selection of oral questions to influence behavior
- Discuss/Demonstrate how the Three Street Truths translate in to the selection of oral questions to influence behavior
- Describe/Demonstrate how P.A.V.P.O. and P.A.C.E. approaches can help you analyze/defuse/influence situations
- Discuss how the VD&I program helps in the area of court room testimony
- Reflect on your own learning about yourself, your style, your responses/reactions to non compliance and your plans for action in the future

Instructional Methodology

- Case Studies and Scenarios with Guided Inquiry
- Role Play with Reflective Debriefings
- Short lectures
- Small group activities

Required Knowledge and Skills

Part I: Instructor Skills

In this section, participants will transition from lecture/demonstration modes to performance based instruction

- The role of an interactive instructor
- Creating physically and psychologically safe learning environments
- Facilitating directed scenarios, simulations with guided inquiry
- Questioning Techniques for critical thinking and problem solving
- Conducting reflective debriefing

Part II: Professionalism

In this section we teach officers to have an elite vision of what it is they do -- to see themselves as "Peace Warriors," who model peace by their mode of speaking and every action.

- Traits of a professional
- Goals of professional intervention -- 3 Cs
- Force options -- S.A.F.E.R. concept
- Peace phrases
- How to keep professionally detached
- The three kinds of people
- How to handle verbal abuse
- How to control your weaknesses
- The Art of Representation
- How to intervene when other staff are acting unethically

Part III: Tactical Theory

In this section we teach officers to understand communication from the receiver's point of view so they can better control an encounter to reach peaceful resolutions.

- The L.E.A.P.S. concept active listening
- Paraphrasing

- The Three Street Truths
 - o People never say what they mean
 - o Two people equals six people
 - o 93% of your effectiveness is your presentation style
- Content, voice and the other non-verbals
- Proxemics defined and utilized

Part 3: Tactics

Once officers have an elite vision of who and what they do and the right tactical theory, this third section focuses on having officers become VJ&I Operatives.

- Difference between VJ&I and verbal karate
- How to apply the L.E.A.P.S concept active listening
- How to apply the S.A.F.E.R. concept when words alone fail
- How to apply the tactical 8-Step concept making initial contacts
- How to apply the tactical 5-Step concept managing verbal resistance
- The Art of Translation and Mediation
- The four ways to appeal to someone in order to generate voluntary compliance

Part IV: Practice and Assessment

In this section we teach officers how to perform the VD&I tactics in simulation drills and decision-making scenarios. Each participant is video-taped teaching with reflective debriefing assessments.

- How to debrief an incident in order to improve future performance
- How to apply VD&I tactics to defend their actions to their supervisors and in criminal and civil litigation.
- How to write reports to properly "articulate" why the response was appropriate
- How to testify in court as to the reasonableness of their actions
- How to apply the P.A.V.P.O. and P.A.C.E. concepts

Time Allotment

Five eight hour training days

Assessment

Performance assessments Written assessments

Instructor Advance Preparation/Materials

Verbal Defense and Influence Curriculum Handbook Overheads

Video clips Flip Cameras <u>Course Outline</u>

Day One:

- Welcome / Instructor Introductions
- Registration: NWTC Form / VJI Form /Information Sheet / Expectation Quiz (Practical)
- Hand Out Two VJ Books Future Reading
- Tac Com Terms Handout Learning a New Language
- Instructor Tasks, Pre-class Warmups, Assignments (Practical)
- Pass Out / Discuss / Complete Instructor Agreements (Practical)
- Welcome / Overview / Participant Behavior Guidelines / Training Safety Rules
- Participants Introduce Each Other and Expectations using Tactical 8 Step (Practical)
- Tactical Communication Program Plaintiff's Attorney Pretest (Practical)
- Introduction to Manual / Class Format / Quote Cards / Mission Statement
- Tactical Communication Needs Assessment (Practical)
 - o Anger Management Video
- The Changing Nature of the Review of Professional Conduct (Practical)
 - o Need to Respond Not Just React to Situations
 - Viewed as a Video Not a Photograph
 - o Increasing Emphasis on the Verbal Component
- Instructor Development
 - o Adult Learning
 - o Learning Pyramid
 - How the course will be taught
 - o Kata Concept Explained
 - o NWTC Principles of Accelerated Learning
 - o Becoming Consciously Aware of Your Unconscious Competence Concept

Professionalism

- o Maine State Trooper Video with Debrief (Practical)
- o LEAPS Keeps You SAFER 8 to 5 Concept Introduction of Tac Com Template
- o Goals of the Course
- o Traits of a Professional
- o Goals of Law Enforcement Explain Communication Three C's
- o Force Options SAFER Concept
- o The Habit of Mind
- o Five Universal Truths with Video Assignment (Practical)
- o Three Kinds of People Difficult Person Definition
- o How to Handle Verbal Abuse (Practical)
- o Five Types of Deflectors / Word Blocks (Practical)
- o The Contact Professional
- o Knowing Your Weaknesses / Anger Guards (Practical)
- o The Art of Representation (Practical)
- o Ethical Interventions with low level walk throughs (Practical)
- o P.O.P. Index with Use of Profanity Caution
- VJ&I Manual Appendix Reading & Terms Assignments (Practical)
- Day One Debrief What did I Learn Today? (Practical)

Day Two:

- Law Enforcement Websites Familiarization
- Review & Preview Use of VJ&I in Education / Personal Life

Handout three CD's and Tac Card with PoliceOne, CorrectionsOne, and VJ&I Member's Website material

- Review Reading Assignments and Tac Com Term List (Practical)
- Review VJ&I Manual and PowerPoint Part One (practical)

- o Audience
- o Voice
- o Purpose
- o Organization
- Tactical 5 Step Managing Verbal Resistance (Practical)
 - o Create Written Tactical 5 Step Script Assignment
- Day Two Debrief What Did I Learn Today? (Practical)
- Control Theory and Use-of-Force Documentation Checklist Reading Assignment (Practical)
- Switch Instructor Tasks

Day Three

- Review & Preview Additional Use of VJ&I in Professional Life Applications
 - o Review Tac Com Term List
 - o Kata Test Assignment / PowerPoint & Manual Review
- Review Role player Responsibilities and Debriefing Sequence
- Tactical Civility Case Studies Incident Debriefs / How to Handle (Practical)
 - o Officer Get Caned / Wheel Chair / Booking Room / Attitudinal Cop Videos
 - Tactical 8 Step Tactic Development
 - Tactical 8 Step Isolation Drill Video Development (Practical)
 - Tactical 8 Step Isolation Drill Video Development Debrief
 - Day Three Debrief What did I Learn Today? (Practical)
 - Read Tac Com Manual Report Evaluation Material (Practical)
 - Switch Instructor Tasks

Day Four

Review & Preview – Additional Use of VJ&I in Personal Life Applications

- Review VJ&I Maxims
- Basic Program Review (Practical)
- Tactical 5 Step Tactic Development

Review the Importance of the Confirming Non Compliance Statement by Referencing the Rattle Snake v. Cobra Analogy – Jungle Book KAA, the Snake Trust in Me Song.

- Complete VJ&I Material
- Specialized Applications for Mediation and Crisis Intervention

Introduce the PACE Concept

- o Problem
- o Audience
 - o Constraints
 - o Ethical Presence
- Art of Translation
- Art of Mediation
- Four Appeals
- Tactical 5 Step Isolation Drill Video Development (Practical)
- Tactical 5 Step Isolation Drill Video Development Debrief
- Begin selection of final teaching assignment (practical)
- Other Related Material
 - o Physical Intervention / Debriefing Orientation
 - o Verbal Direction
 - o Level / Stage / Degree of Stabilization
 - o Verbalization during Stabilization
 - One Voice Stabilization Command
 - Verbalization after Handcuffing
 - Verbalization during Tactical Pauses

- Committing to Safety Prior to Escort
- Debriefing How to Conduct Training / Duty Assignment Debriefs
- Initial Medical Assessment
- Day Four Debrief What did I Learn Today? (Practical)
- Work on Kata Test Assignment / Prepare Peace Story or Testimonial Video (Practical)

18

• Switch Instructor Tasks

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Day Five

- Begin Completing Final Evaluations / Forward Action Report (Practical)
- Review & Preview Additional Use of VJ&I in Personal Life Applications
 - o Final Review of Term List
- Conduct Groups Work on Kata Test with Review (Practical)
- Work on Peace Story / Testimonial Video Assignment (Practical)
- Duty Video Tapes: When to Review / Accuracy
- Articulation / Report Writing / Testimony (Practical)
 - o What's Your Plan? Discussion
 - Introduction to DT
 - First Responder Philosophy
 - Disturbance Resolution Model
 - o VJ&I Application
 - Wopershall Report
 - VJ&I Template
 - VJ&I Template Use of Force Evaluation (Practical)
 - Create Incident Report / Courtroom Testimony with Debrief (Practical)
- How to Implement Tactical Communication in a Skeptical Work Environment
- How to teach a VJ&I Class with varying time restraints
- SAFER 8 to 5 with LEAPS Concepts with Escalation Drills, if time permits (Practical)
- Conduct Check for Learning Written Test with Review (Practical)



Use of Force

Supporting Documentation:

I.A. Pro Blue Team Tracking Software

Purpose:

More efficiently and effectively track trends and patterns regarding uses of force within the Spokane Police Department

IAPRO

Contact sales: 1-800-620-8504 ext 701

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Since 1998 IAPro and its companion product BlueTeam have supported the key needs of Professional Standards and Internal Affairs units across the USA.

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In-depth support is provided for complaint management, early intervention, accreditation and frontline supervision.



THE LEADING CHOICE ACROSS THE USA

With over 450 customers across the United States, our software is the leading choice of Professional Standards solution

Longstanding customers include larger Departments such as Cook County Sheriff (Chicago), Las Vegas Metro Police, Philadelphia Police and NYPD, just to name a few, as well as many mid-sized and smaller Departments.

Regardless of size, all IAPro customers have a single, overriding need: to ensure their integrity to the highest degree.

PROVEN COMMITMENT TO OUR CUSTOMERS

We pride ourselves on the level and quality of our customer support, which includes:

Toll-free 1-800 number Support provided across East and West coast hours A three-day annual users conference – no charge Two-day user symposiums at selected locations across the USA – no charge **#**

IAPRO

IAPRO

Supporting the Specialized Needs of Internal Affairs and Professional Standards Units

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AUTO MATED CO RRESPONDENCE AND FORMS



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BLUETEAM

Frontline Software for IAPro

Bluetcam is software that allows officers and supervisors to enter and manage incidents from "the field". A simple, step-by-step internet-style interface is used, minimising training requirements.

incidents - including use-efferts, held-level discipline, complaints, vehicle accidents and pursuits - are entered and can then be routed through the chain-effortmened with review and approval at each step.

PRONTLINE SUPPORT INCLUDES

Early Intervention Dashboard

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SCD module

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BLUETEAM BENEFITS

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incidents are routed through the chain-of-command with review and approval at each step.

Simplicity

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Ensures consistency of data that's captured

matered of relying an information entered onto a written form, BlueTeam enforces the entry of required information. The web form utilizes picklist values enforcing consistency of the data entered. This results in more consistent and performs statistical reports.

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Use of Force

Supporting Documentation:

Training Directive effective May 2013

Purpose:

An administrative use of force report will be required in all instances where an officer points a firearm at an individual



SPOKANE POLICE DEPARTMENT CHIEF OF POLICE FRANK STRAUB, Ph.D.

2013 TRAINING BULLETIN #4

MAY 23, 2013

DIRECT POINTING OF FIREARM AT AN INDIVIDUAL-NOW CONSIDERED A USE OF FORCE

<u>Why the change</u>: The Department is in the process of seeking accreditation from WASPC. We have and are continuing to bring our policies in line with best practices. The recent Use of Force Commission made recommendations that are being incorporated into our policies and practices.

- Policy 300 Use of Force
- Policy 344 Report Preparation

The direct pointing of a firearm by an officer at an individual shall be considered a Use of Force.

When an officer directly points a firearm at an individual the following SHALL occur:

- 1. A supervisor shall be notified and respond (if possible) Policy 300.5.1 & 300.7
- 2. A supervisor will complete a Use of Force report and it will be forwarded through the chain of command **Policy 300.7**
- 3. Justification for the action will be documented in an Incident Report Policy 300.5

***Policy 300.5** – Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

*having a firearm in hand with a depressed muzzle, shall not be subject to this policy.



Use of Force

Supporting Documentation:

Department of Justice Collaborative Reform Project

Purpose:

The Department of Justice has agreed to assist the Spokane Police Department in updating use of force investigations in accordance with best practices

Spokane Police Department Priorities and Goals

Priorities	Goals	Deliverables
Analyze 4 years of use of force (fatal and non-fatal) investigations to determine trends, strengths, and weaknesses in internal investigations.	To improve use of force investigations.	Analysis of Use of Force Data Report
Analyze the role of ombudsman in investigating use of force investigations model procedures for civilian oversight.	To improve civilian oversight; to develop a model of civilian oversight that can be replicated in other jurisdictions.	A publication that details various models for civilian oversight.
Review internal cultural as [:] ^l ates to use of force laints and use of force investigations.	To address any perception problems within the community; to build trust between the community and the Spokane Police Department and conduct focus groups to determine the concerns of the officers.	Analysis of Use of Force Data Report
Analyze the multi- jurisdictional task force process Spokane uses to investigate use of force incidents. Identify promising practices for a regional approach to investigate use of force incidents that include municipal, county and state law enforcement agencies.	To examine the strengths and weakness of multi-jurisdictional approaches to officer- involved shootings and formalize a standard model that other agencies can follow	A guidebook for mid- size agencies that provides multi-jurisdictional models for the investigation of Officer-involved shootings.



Use of Force Supporting Documentation:

Spokane Police Department Complaint Investigative Policy and Procedure



Personnel Complaint Procedure

1020.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

1020.1.1 DEFINITIONS

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Personnel Complaints shall be classified in one of the following categories:

Inquiry - Questions about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

Complaint - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Internal Affairs Unit depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the Assistant Chief, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Mediation - Is a voluntary process and an alternative to investigation, adjudication and the disciplinary process.

1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the Public Safety Building lobby, at all COP Shops, from Internal Affairs, or at the Office of Police Ombudsman.

1020.2.2 SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) A complaint may be filed directly with Internal Affairs or the Office of Police Ombudsman.

Policy Manual

Personnel Complaint Procedure

(d) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

1020.2.3 ACCEPTANCE OF COMPLAINTS

A complaint may be filed in person, in writing, or by telephoning the department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) When an uninvolved supervisor determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper implementation of department policy or procedure, a complaint need not be taken. A Citizen Inquiry form will be completed and forwarded to Internal Affairs.
- (b) When the complainant's credibility appears to be unreliable, the person should be provided with a Personnel Complaint form and the supervisor should complete a Citizen Inquiry form, noting the credibility concerns.
- (c) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

1020.2.4 COMPLAINT DOCUMENTATION

Complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

When a Personnel Complaint form is completed in person, the complainant should prepare a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended, if practicable, that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement.

1020.3 SUPERVISOR RESPONSIBILITY

In general, preliminary and follow-up investigative responsibility for some administrative complaints shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor, Internal Affairs, or Human Resources, investigate the complaint. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a complaint involving allegations of a potentially serious nature shall ensure that the Shift Commander is notified as soon as practicable. The Shift Commander will determine if the nature of the complaint warrants DSO notification.
- (b) A supervisor receiving or initiating a complaint, or conducting a preliminary investigation, shall ensure that a Personnel Complaint form has been completed as fully as possible to include; the names and contact information of all involved parties and witnesses, collection of evidence, photographing of alleged injuries as well as areas of non-injury, etc. The supervisor will send the original to Internal Affairs by the end of his/her shift, and forward a copy through the accused employee's chain of command. The chain of command will review the complaint and make recommendations as to the appropriate department response. The Assistant Chief

Spokane Police Department

Policy Manual

Personnel Complaint Procedure

will determine if the allegation is criminal or administrative. If the allegation is criminal, the Assistant Chief will notify the Chief of Police. A decision will then be made as to the proper method of investigation.

(c) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor or commanding officer receiving the complaint shall immediately contact the employee's Bureau Commander or the Duty Staff Officer who will initiate appropriate action. Internal workplace complaints of this nature will be investigated by Human Resources in coordination with the department's Internal Affairs Unit. The Internal Affairs Unit will ensure that all complaints/investigations are documented, monitored, and reviewed for thoroughness and objectivity.

1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

The Chief of Police may elect to place an employee on administrative leave when circumstances dictate such leave to be in the best interest of the department.

1020.4.1 ADMINISTRATIVE LEAVE

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor. The employee shall be available to the department by pager, or other electronic means, during normal business hours, 0800-1600 hr., Monday through Friday.
- (d) At the discretion of the Chief, as an alternative to administrative leave, the employee may be temporally reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) The Chief of Police or designee, is authorized to place an employee on administrative leave.

1020.5 ALLEGATIONS OF CRIMINAL CONDUCT

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to an assigned investigator.
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Personnel Complaint Procedure

No information or evidence administratively coerced from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a police officer, which has not led to a conviction, however, no disciplinary action, other than non-disciplinary paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report. An employee charged with a crime may be placed on unpaid layoff status in accordance with Civil Service Rules.

1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT

Whether conducted by a supervisor, an assigned member of the Internal Affairs Unit, or the Human Resources Department, the following procedures shall be followed with regard to the accused employee(s):

- (a) Interviews of accused employees shall be conducted during reasonable hours, preferably when the employee is on-duty. If the employee is off-duty, the employee shall be compensated.
- (b) No more than two interviewers, and the Ombudsman if present, may ask questions of an accused employee.
- (c) Prior to their interview, an employee shall be informed of the nature of the investigation. If the employee is the subject of the investigation, they shall be given a general overview of the factual allegations in writing before the interview commences.
- (d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated.
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions that are narrowly tailored to establish the facts of the investigation or the employee's fitness to hold office, may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator, except at the direction of the Chief.
- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview if requested by the employee.
- (g) Any employee who becomes the subject of a criminal investigation shall, prior to their interview, be notified that he/she is the subject of a criminal investigation and, further, that he/she is under no obligation to answer any questions or to remain in an interview setting involuntarily. A criminal investigation shall be interpreted as any investigation which could result in the filing of a criminal charge against the employee.
- (h) All employees subjected to interviews that could result in punitive action shall have the right to have a Collective Bargaining Unit representative present at any interview. In addition, they may also have legal representation at their own expense. These representatives may participate to the extent allowed by law.
- (i) All employees shall provide truthful and non-evasive responses to questions posed during interviews.
- (j) An investigator will not ask, nor will an employee be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any administrative investigation.

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Personnel Complaint Procedure

1020.6.1 ADMINISTRATIVE SEARCHES

An employee of this department may be ordered to submit to a blood, breath, or urine test for alcohol and drugs as allowed by law.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process.

Employees shall have no reasonable expectation of privacy in the use of city computers, telephones, radios, and electronic devices, and, in city property including desks, lockers, file cabinets, and vehicles, provided that employees retain a right of privacy in the personal possessions contained therein. Absent permission of the employee, no locker or vehicle search (excluding regular vehicle inspections) shall be conducted unless in the presence of a bargaining unit representative. Any removed items shall be inventoried.

1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

Introduction - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

Synopsis - Provide a very brief summary of the facts giving rise to the investigation.

Summary Of Allegations - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence As To Each Allegation - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation of disposition will be provided during the chain of command review or by the Administrative Review Panel (ARP). Internal Affairs investigators will not submit a recommendation of disposition.

Exhibits - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel.

Exonerated - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

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Training Failure - Deficiency in training was the cause of the alleged act.

Closed Due to Mediation - Is an alternative to the investigation, adjudication and disciplinary process.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1020.8 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation as required by Collective Bargaining Agreements. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed.

- (a) If the complaint is investigated by the shift/unit:
 - 1. The employee's supervisor will make a recommendation of finding and disposition. The supervisor will utilize the appropriate form, and forward the file through the chain of command to the Assistant Chief.
 - 2. The Assistant Chief will forward to the Internal Affairs Unit with recommendations or for submission of the case to the Administrative Review Panel (ARP).
 - 3. The Internal Affairs Unit will review the file for completeness and forward the case to the Chief for deliberation of finding and disposition. If the case was submitted to ARP, it will be returned to the Assistant Chief for review. The Assistant Chief will submit the completed file to the Chief for deliberation of finding and disposition.
 - 4. Upon completion of investigations involving allegations of a serious nature or originated by the Office of Police Ombudsman (OPO), IA will forward a complete copy of the case file to the OPO for review. The OPO will have five business days to determine whether the investigation was thorough and objective.
- (b) If the case was investigated by the Internal Affairs Unit:
 - 1. Once Internal Affairs has completed their fact-finding investigation, the case will be submitted to the Assistant Chief for review. The Assistant Chief will determine if the case will be submitted for a chain of command review or referred to the Administrative Review Panel.
 - 2. Upon completion of the chain of command review the case will be sent to Internal Affairs. The Internal Affairs Unit will review the file for completeness and forward the case to the Chief for deliberation of finding and disposition. If the case was submitted to ARP, it will be returned to the Assistant Chief for review. The Assistant Chief will submit the completed file to the Chief for deliberation of finding and disposition.
 - 3. Upon completion of investigations involving allegations of a serious nature or originated by the OPO, IA will forward a complete copy of the case file to the OPO for review. The OPO will have five business days to determine whether the investigation was thorough and objective.

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Within 30 days of case closure, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed.

The OPO will be notified by IA within five business days of case closure of all complaints of a serious matter and all complaints originated by the OPO. The OPO, in addition to the department's written Notice of Finding letter to the complainant, may send a closing letter to the complainant. The letter may summarize the case findings.

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Office of Police Ombudsman to discuss the matter further.

1020.8.1 CONFIDENTIALITY OF INVESTIGATIONS AND PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential peace officer personnel files (<u>Policy Manual</u> § 1026). The contents of such files shall not be revealed other than as required by law, to the involved employee or authorized personnel, or pursuant to lawful process (<u>RCW</u> 42.56 et seq., and <u>RCW</u> 70.02).

Accused employees, while they have a right to prepare a response to the allegation and disclose to others that they are the subject of an investigation, must not interfere with the internal investigation process. In order to ensure that the integrity of the investigation is maintained and that all policies are understood and followed, employees shall not discuss the allegations or the investigation, nor allow anyone else to gain access to that information, without the express authorization of the Chief, his/her designate, or the Internal Affairs officer. The accused employee, however, may discuss the matter with his/her supervisor, collective bargaining unit representative, and/or his/her attorney without prior consultation with the Chief, his/her designate, or the Internal Affairs officer.

All investigative files shall be maintained for a period of no more than current year plus six years from the date of case disposition. Exceptions will be made for complaints associated with ongoing litigation.

Electronic histories of all personnel shall be maintained for a period of no more than six years plus the current year. At that point, the employee's name will be removed from the event.

1020.8.2 ADMINISTRATIVE REVIEW PANEL

The Administrative Review Panel (ARP) will be comprised of a Bureau Commander or captain, serving as chair, with a panel comprised of captains and/or lieutenants. This panel will have both investigative and review/recommendation authority. Review/recommendation responsibilities would include reviewing for thoroughness and objectivity, and making recommendations as to finding and proposed discipline (Local 270 members will not include proposed discipline).

As part of the review/recommendation process, the Administrative Review Panel has certain investigative responsibilities, which could include, in certain cases, directing the Internal Affairs Unit to conduct additional investigation into a specific facet of the case.

The ARP may also direct employees to appear before the panel for specific questioning. In such instances, the employee's rights and responsibilities would be as provided in other areas of this policy.

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Personnel Complaint Procedure

ARP members will preserve the integrity of the process by maintaining the confidentiality of the complaint and investigative case file.

1020.8.3 OFFICE OF POLICE OMBUDSMAN

- (a) The Office of Police Ombudsman (OPO) will provide a professional presence to help ensure a quality investigation in real time, and visible, independent oversight to reassure the public.
 - 1. The OPO will actively monitor all police department internal investigations.
 - 2. The OPO may receive complaints from any complaining party, including, without limitation citizens or employees of the police department. The OPO will forward all complaints to IA within three business days for processing and, when appropriate, investigation. The OPO will not conduct independent disciplinary investigations.
 - 3. In addition to complaints received by the OPO, Internal Affairs will provide copies of all other complaints to the OPO within three business days.
- (b) Once the case is closed, the OPO will return all case file materials to IA for retention, but will have subsequent access to closed cases.
 - 1. The OPO will have the opportunity to make a recommendation for mediation to the Chief of Police, prior to investigation. In the event the department, the complainant and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline and no disciplinary finding will be entered against the officer. Good faith means that the officer listens and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.
 - 2. Once any complaint is received by the Internal Affairs unit, it shall be submitted to the chain of command for review per existing policy. When either the Chief or her/his designee determines that the allegations warrant investigation, such investigation shall be approved, and IA will initiate the investigative process.
 - 3. Internal Affairs will notify the OPO of all administrative interviews on all complaints of a serious matter (complaints that could lead to suspension, demotion or discharge) and all complaints originating at the OPO. The OPO may attend and observe interviews, and will be given the opportunity to ask questions after the completion of questioning by the department. The OPO will not participate in criminal investigations of department employees but will be notified when the criminal case is concluded.
 - 4. Upon completion of investigations, IA will forward a complete copy of the case file to the OPO for review. The OPO will determine whether the investigation was thorough and objective.
 - 5. As a part of the review process, the OPO may conclude that additional investigation is needed on issues deemed material to the outcome. If there is any dispute between the assigned investigator(s) and the OPO regarding the necessity, practicality or materiality of the requested additional investigation, the Chief (or designee) will determine whether additional investigation will be undertaken. If the OPO is not satisfied with the determination of the Chief, the

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matter will be resolved by the Mayor, who's decision will be final. Once the matter has been referred to and resolved by the Mayor, the investigation will be completed consistent with the determination by the Mayor. After completion of the additional investigation, or the conclusion that no further investigation will be undertaken, the OPO will then certify whether or not, in the opinion of the OPA, the internal investigation was thorough and objective. This determination will be made within five business days. Once the above finding is entered in the investigation, the OPO will not be involved further in the disciplinary process in that case.

- 6. All disciplinary decisions will be made by the Chief (or designee).
- 7. The OPO will be provided a copy of any letter or other notification to an officer informing them of actual discipline imposed as a result of an internal affairs investigation or any Notice of Finding in the event that the complaint is not sustained.
- 8. The OPO will be notified by IA within five business days of case closure of all complaints of a Serious Matter and all complaints originated by the OPO. The OPO, in addition to the department's written Notice of Finding letter to the complainant, may send a closing letter to the complainant. The letter may summarize the case findings.
- 9. Any complaining party who is not satisfied with the findings of the department concerning their complaint may contact the Office of Police Ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the city in any subsequent challenge to the discipline.
- 10. In addition to the investigative process, the OPO will have unimpeded access to all complaint and investigative files for auditing and reporting purposes. The OPO shall not retain investigative files beyond one year and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the Chief of Police in specific cases.
- 11. The OPO may recommend policies and procedures for the review and/or audit of the complaint resolution process, and review and recommend changes in departmental policies to improve the quality of police investigations and practices. Nothing herein shall be construed as a waiver of the Guilds right to require the city to engage in collective bargaining as authorized by law.
- (c) The OPO shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney's clients and shall not disclose confidential records.

1020.8.4 MEDIATION

Mediation is an alternative to investigation, adjudication and the disciplinary process. The OPO will have the opportunity to make a recommendation for mediation to the Chief of Police, prior to investigation. In the event the department, the complainant and the officer all agree to mediation, that process will be utilized rather than sending the matter on for

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investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline and no disciplinary finding will be entered against the officer. Good faith means that the officer listens and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.

1020.8.5 POSTING OF DISCIPLINARY ACTION

Whenever any disciplinary action is taken which involves discipline beyond the level of a formal letter of reprimand (e.g., suspension, demotion, or termination), the Chief of Police shall cause to be posted on the department's official bulletin boards a notification setting forth the following: The name of the officer or employee being disciplined; a summary of the facts and findings in the disciplinary process; the nature and extent of the discipline imposed, with a summary of the rationale supporting that decision.

Copies of this notice shall remain posted on the official bulletin boards for six days in order to allow employees of the department who are on days off the opportunity to personally review them. After six days, the notices shall be collected and returned to the file. The contents of such notices shall be deemed as confidential and for internal use only, and any release of the information contained therein shall only be made through the office of the Chief of Police and with his/her authorization. The removal, defacing, or alteration of such notices and/or the release of their contents outside the department shall be considered improper conduct and/or a breach of confidentiality and therefore potentially subject to disciplinary action.

Discipline of AFSCME Local 270 employees will not be posted.

Use of Force

Supporting Documentation:

Department of Justice Collaborative Reform Project

Purpose:

The Department of Justice has agreed to assist the Spokane Police Department in updating use of force investigations in accordance with best practices

Spokane Police Department Priorities and Goals

Priorities	Goals	Deliverables
Analyze 4 years of use of force (fatal and non-fatal) investigations to determine trends, strengths, and weaknesses in internal investigations.	To improve use of force investigations.	Analysis of Use of Force Data Report
Analyze the role of ombudsman in investigating use of force investigations model procedures for civilian oversight.	To improve civilian oversight; to develop a model of civilian oversight that can be replicated in other jurisdictions.	A publication that details various models for civilian oversight.
Review internal cultural as Plates to use of force laints and use of force investigations.	To address any perception problems within the community; to build trust between the community and the Spokane Police Department and conduct focus groups to determine the concerns of the officers.	Analysis of Use of Force Data Report
Analyze the multi- jurisdictional task force process Spokane uses to investigate use of force incidents. Identify promising practices for a regional approach to investigate use of force incidents that include municipal, county and state law enforcement agencies.	To examine the strengths and weakness of multi-jurisdictional approaches to officer- involved shootings and formalize a standard model that other agencies can follow	A guidebook for mid- size agencies that provides multi-jurisdictional models for the investigation of Officer-involved shootings.

Use of Force

Supporting Documentation:

Supervisor's Role in Managing the Use of Force

Purpose:

Supervisors play a critical role in reducing use of force incidents and investigating uses of force

Supervisor's Role in Managing the Use of Force Incident



Civil Lawsuits

- Law enforcement agencies receive 430,000 complaints of excessive force annually.
- A Google search of "police excessive force" produced over 1,100 news articles.
- · Excessive force lawsuits:
- Make up over 95% of a department's civil litigation.
- Are responsible for 99% of a department's public relation's nightmares.
- Cost departments millions of dollars
 each year \$\$\$\$\$\$\$\$\$\$



Family of Marine shot by city officer sues for \$270 million

Headline News

Lawsuit alleges officer should not have been on force after questionable behavior.

The officer has been charged with first-degree murder in the shooting.







Family gets \$12 million: Unarmed man shot by Cop

Headline News

After the incident, the officer admitted that the shooting was not justified and the city also acknowledged that the officer was wrong. The jury awarded \$12.5 million.

Judge fines Sheriff's Office \$300K in excessive force case

Headline News

A judge reprimanded the Sheriff's Office for its handling of the case of a man, who suffered brain damage when he was slammed against a wall by a deputy.

The County has already paid \$10 million to the family.



Police must pay \$2.1 million excessive force judgment

Headline News

A federal jury awarded \$2.1 million in damages Thursday to a man who three police officers subjected to excessive force.

Officers pepper sprayed the plaintiff, placed him in a choke hold and held him down on the ground with a knee to his neck.

Federal agent wins \$2 million verdict from police

A federal jury has awarded more than S2 million to a U.S. Immigration and Customs Enforcement agent who said he was roughed up by police officers during an undercover operation at "Toys R Us."

BART Reaches \$1.5 Million Settlement In Grant Lawsuit

Headline News

BART settled the 50 million dollar suit. Oscar Grant III who was unarmed when he was shot and killed by a BART police officer.

The officer, who resigned a week after the shooting, is charged with murder.





Headline News

The officer told the jury he made a "controlled drop to the ground" to subdue the centerfold, "We didn't know if she had a firearm," he testified.

Later, he admitted that she "was wearing tight-fitting clothing, and there was no place to conceal a weapon."







The Epidemic of Police Liability

Headline News

According to the U.S. Justice Department, allegations of wrongdoing by police departments across the country have mushroomed to unprecedented levels. According to Thomas Perez, the assistant attorney general for the Civil Rights Division, at least 17 U.S. police departments are under investigation for various civil rights violations, "more than at any time in the division's history," Perez said in testimony before the Senate Judiciary Committee in September.



Police fail to see a problem

The meaning of the blistering Justice Department report last week was in no way hard to make out. Unfortunately, that didn't stop police and political brass from trying to rationalize it anyway.

Headline News

The feds found that one in every five times police used force the cops did so in a way that was excessive to degrees that it violated the person's constitutional rights.

The DOJ report says the problems are systemic, ingrained and cultural. "Starting at the top".



Headline News



PORTLAND, OREGON --Officials from the U.S. Department of Justice announced the federal agericy's findings from a more than 14-month-long investigation, determining the Portland Police Bureau has engaged in a "pattern and practice" of excessive use of force, particularly against mentally ill suspects.

Federal judge wants more say over police department reforms

The changes will affect almost every aspect of how police officers interact with citizens, from casual contact to the use of deadly force.

Headline News

Judge Robart expressed concern about ceding such important oversight duties to the department and stated the reforms "would require the vigilance of the court."









Proactive Liability Management Strategy

- Evaluate the Potential Liability in all Things.
- Adopt a Proactive Liability Management
 Philosophy.
- Understand the Categories and Causes of CJ
 Lawsuits.
- Conduct Integrated Use of Force and Scenario-Based Training

Evaluate the Potential Liability in all Things

Consequent Clairvoyance

The ability to see the potential harm in every situation.

To develop this important supervisory talent, you must combine an inquiring mind with an innate mistrust of everything.

Predicting Potential Liability

Equation for Predicting Liability

situation + lowest common denominator = the worst possible thing(s) that can happen

This equation can be used to determine liability in adopting new force options, operational activities, and training.

Equation for Predicting Liability when Deploying the Taser

The department purchases X26 Tasers (situation) + Officer Jones who lacks common sense (lowest common denominator) = see list (the worst possible things that can happen)

Worst Possible Things

Deploys Taser probes to:

- small child
- elderly woman
- handcuffed person
- visibly pregnant woman
- passively resisting person
- running intoxicated juvenile
- person on the edge of a roof / atop a bridge or fence



Identifying Restrictions that Minimize Liability

Equation for Minimizing Liability

the worst possible thing that can happen + the proactively developed restriction = liability reduction

Equation for Minimizing liability when Deploying the Taser

An elderly woman is shocked with the Taser probes after refusing to sign a traffic citation (the worst possible thing that can happen) + policy against Tasering elderly people for nonviolent offenses (proactively developed restriction) = reduction in department liability.

Equation for Minimizing Liability when Deploying the Taser

A grade school age child with a shard of glass is shocked with Taser probes (the worst possible thing that can happen) + policy against tasering children under twelve unless deadly force is justified (proactively developed restriction) = reduction in department liability.

Equation for Minimizing Liability when Deploying the Taser

A suspect is injured from the free fall off the top of a fence after being shocked with Taser probes (the worst possible thing that can happen) + policy against tasering a suspect on elevated structures unless deadly force is justified (proactively developed restriction) = reduction in department liability.

Proactive Defensive Strategy

Proactive Defense consists of six parts:

- Proactive Mindset
- Proper Perception Management
- Understand the Opposition's Mindset
- Understand the Opposition's Strategy
- Knowledge of Use of Force Standards and Justification Principles
- Properly Documented Use of Force Incident



Proactive Defense Proactive Mindset

- Enter into every situation with the expectation you will be sued or prosecuted for your actions.
- Knowing that in the end you must explain and justify your actions to a jury keeps your actions appropriate and defensible.



"Begin With The End In Mind"

Proactive Defense Proper Perception Management

- Positively managing the witnesses' perception at the scene.
- Positively influencing the jurors' perception at trial,

Perception is the Filtered Interpretation of Reality



Proactive Defense

Understand The Opposition's Mindset

- Inherently mistrustful of cops:
 - Anti-police bias of law school professors
 - Practice as criminal defense attorneys
 See officers as abusive, dishonest, cover-
- up for each other, and adhere to the "Blue Code of Silence"
- See a conspiracy in most excessive force lawsuits

Lawsuit: Police Tasered Man 11 Times for Mistaken Identity

Headline News

The officers ran his name through a computer and found an outstanding warrant for "J. Tapia," the suit said. Even though "J. Tapia" was 30 pounds heavier, six inches shorter and 12 years older, the officers arrested Tapia, then searched him and his vehicle.

The suit claims the officers conspired to cover up their behavior by saying Tapia battered three officers and was under the influence of PCP and alcohol.



Proactive Defense

Understand The Opposition's Offensive Strategy

 Attack your credibility by convincing the jury you are:

- abusive careless, dishonest, ind
- insensitive, negligent, poorly trained
- failed to follow your training, violated department policy

Plaintiff Attorneys Do Not Win Lawsuits - Cops Lose Them



Proactive Defense

Properly Documenting the Use of Force Incident

- Photographs
- Logs/Records
- Physical Evidence
- Audio/Video Recording
- Effective Use of Force Report
- Defensible Interview With Your Attorney Present (deadly force)

Four Main Areas of Civil Lawsuits

- Unlawful Entry
- Excessive Force
- False Arrest/Imprisonment
- Police Vehicle Pursuits



Elderly couple to get \$300,000 in unlawful entry and excessive force suit against sheriff's office

Headline News

An elderly couple will get \$300,000 to drop a lawsuit against the sheriff's office over claims that deputies illegally entered their house and injured them while arresting their son, officials revealed Tuesday,



Woman arrested for exercising her constitutional rights - city settles lawsuit

Headline News

The officer asked if he could come in and talk to her adult son. When she told the officers they could not enter without a search warrant, the seventy-five yearold grandmother was arrested for interfering with a police officer.

The charge was dropped by the District Attorney's Office. The chief admitted the officers used poor judgement and the city settled the lawsuit.



City settles suit over entry and excessive force for \$155,000

The law student claimed that a police officer used excessive force and illegally entered his home to silence a loud party.

The attorney who represented the city in the case, said the city sought to settle the lawsuit after "assessing the defensibility of the claim and the risk of going forward" with a trial,

Search Warrant Exception

• When the circumstances exist an officer can make an immediate entry to:

- Protect Life
- Prevent the Destruction of Evidence & Property
- The legal exception to the search warrant requirement is termed:

"Exigent Circumstances"

Search Warrant Exception

Factors That Make Obtaining A Telephonic Warrant Unreasonable:

- The immediate risk of injury to the occupants.
- The escape of a dangerous suspect.
- · Lack of personnel to secure the building.
- Prevent the destruction of evidence of a serious crime.

Sixth Circuit Says 911 Call Justifies Police Entry Into House

The panel found that 911 calls represent a textbook example of an exigent circumstance. Such emergency situations are prime examples of when it can be necessary for police officers to enter a home without a warrant. The Sixth Circuit said even hang-up calls to 911 could be justification for such police entries.

> Stricker v. Township of Cambridge

Search Warrant Exception "Hot Pursuit"

Two Concerns That Justify A Warrantless entry:

- The suspect will harm the occupants and/or take them hostage.
- Suspect is entering the building or residence to obtain a weapon.



Unlawful Entry "Arm's Reach Doctrine"

- Is a generally accepted police practice.
- Does not meet the requirements for an exigent circumstance entry.
- Creates officer and department liability.



Lawsuit alleges excessive force by officers

The complaint states she was extremely intoxicated and was taken to the hospital for medical treatment. She was placed in a private room with her hands and feet bound in leather restraints.

"Approximately eight minutes after being restrained she was tased multiple times in the neck by an officer."



Excessive Force

- Force that is deemed excess by a federal judge, appellate court, or the Supreme Court.
- Force that is found to be unreasonable by a _____jury.
- Force that is applied maliciously and sadistically.
- Nondeadly and deadly force must be "Objectively Reasonable.





False Arrest

- Only need "Probable Cause" for an arrest to be lawful.
- Probable Cause is a lesser burden of proof than "Proof Beyond a Reasonable Doubt."
- Cops use "PC" arrests to solve community problems.
- Probable Cause arrests are often dismissed by the prosecutor - resulting in a false arrest lawsuit.

Federal jury rules against police in Tasing of man suspected of graffiti tagging



The jury awarded \$125,000 in punitive damages, \$75,000 in non-economic damages and \$6,372,70 for medical

Police cited him for resisting arrest and criminal mischief, but prosecutors didn't file charges.

Lawsuit claims police officers beat suspect

Headline News

A federal lawsuit claims police officers beat and falsely arrested the plaintiff (suspect).

The plaintiff was charged with resisting arrest and with criminal damage to property. The charges were later dismissed.

The suit seeks more than \$600,000 in compensatory damages - more than \$100,000 in punitive damages, attorney fees, and court costs.





Pistorius v. Medford



Vehicle Pursuits

- Occur less frequently than the other three high liability categories.
- · Have larger jury verdicts and settlements.
- Majority involve a driver who has committed a traffic violation.
- A large percentage of the people injured or killed in the crash are innocent drivers and passengers.



Officer's parents killed in police chase

Headline New

The argument for police not chasing traffic violators at high speeds has hit home for one officer.

The officer's parents were killed on Thanksgiving Day when their mini-van was struck by a truck as they pulled through an intersection. The pickup ran the red light as the driver fled from police at speeds over 70 MPH. The driver was pursued by the officers for committing a traffic violation.



Policy change reduces police pursuits

Headline New

After a woman crossing the street was hit and killed by a teenager who was being chased by police in a high speed pursuit for a traffic violation, the department changed its pursuit policy.

In the following year, the number of the department's high speed pursuits has decreased by 75%.





High Stress

- Impairs Judgement.
- Decisions are made in the frontal lobes.
- · Stress reactions occur in the mid-brain.
- Heart Rate of 145 beats per minute indicates a state of high stress.
- Under stress you think with the intelligence of a smart dog (Grossman).

Police officer accidentally sprayed burning man with pepper spray

A police officer accidentally used pepper spray instead of a fire extinguisher on a man who lit himself on fire near a downtown fur store Wednesday.

When the officer went to get a fire extinguisher out of the trunk of the patrol car, the officer accidentally grabbed a large can of pepper spray used in riot control. The Chief said the pepper spray cans are red like a fire extinguisher.

Citizen arms deputies taken hostage

When a sergeant and a deputy were disarmed and taken hostage during a domestic violence arrest on Wednesday, the next door neighbor armed the deputies with his own firearms.

After a fierce gun battle, the suspect was taken into custody unharmed. The sheriff's department is reviewing the deputies reactions and factics.



Ego-Caused Emotional Reaction

To prevent a "Contempt of Cop" lawsuit ask yourself this question:

"Am I arresting this person because it is in the public's best interest, or am I making the arrest as punishment because I am pissed off?"

 If the answer is I want to punish this person because I am pissed off, do not make the arrest.



Caught on tape: Cop beats videographer

Headline News

A police department review found that the officer violated police policies when he used "excessive force" on the man outside his residence.

In the video, the man yells in pain while the officer tells him to "shut up" and that his decision not to turn off the camera put him in "a world of hurt."

The videographer's lawyer said he intends to sue the officer and the police department.



Misinformation

- The most expensive mistake that department's make regarding use of force training is they assume that the training their officers receive is valid.
- When officers apply use of force information that is incorrect, outdated, or for profit, it creates liability for the officer and the department.

Montana Insurance Authority: 7M - 70M



A Lack of Knowledge

- Knowledge is the product of the application of information to a successful end.
- A lack of knowledge is the primary reason why CJ lawsuits are settled or lost.
- It is not slick lawyers or a crybaby society of victims.
- It is the lack of knowledge of how to properly manage the use of force incident.

COD Class - Robert Franz

Poorly Designed Training

Training does not minimize liability. Properly designed training minimizes liability.

- Poorly designed or conducted training can have negative unforeseen consequences.
- Force on Force
- Three Minute Drill
- Learned Helplessness

Atlanta Incident





Lack of / Poor Supervision

- Knowledgeable first-line supervision is a corner stone to minimizing excessive force complaints and winning lawsuits.
- Supervisors see firsthand their officers' use of force at the scene.
- If the supervisor's understanding of properly managing the use of force incident is limited, outdated, or wrong, officers are not well served and the department is exposed to liability.



Confused Recruit

DOJ investigation finds excessive use of force, calls Police Dept. 'broken'

Headline News

"We find there is reasonable cause to believe that the Police Department engages in a pattern or practice of using unnecessary and excessive force in violation of the United States Constitution. This finding includes violations committed both by the policing itself in the use of force, but also by the lack of policies and supervision."

"Supervisors regularly fail to hold their officers accountable for excessive force," the report stated.





Headline News

By the end of this year, 14 lawsuits had been filed against the police department in federal court by people who claimed police had used excessive force against them.

The city's insurance carrier has paid out more than \$3 million to settle excessive-force claims.



Basing Force Option Application on the Manufacturers' Recommendation

 Many excessive force complaints and lawsuits can be linked to administrators, officers, and trainers following - without question - the manufacturers' recommendations on usage and training for newly developed force options.

 Any device or substance that incapacitates a human being will cause - directly or indirectly serious physical injury, or death.



Police to aim Tasers away from chest Manufacturer issued warning about cardiac arrest

Headline News

Earlier this month, the Arizona-based manufacturer warned Taser jolts to the chest could be linked to cardiac arrest or other medical conditions.

Although not related, the announcement comes on the heels of three deaths this year after suspects were shot in the chest with Tasers by police officers or sheriff's deputies.





Taser warning: Stun-gun maker suggests avoiding chest shots

Headline News

The police officer who deployed a Taser on the 32-yearold suspect before he collapsed and died this summer aimed for the spot officers were instructed to target: the chest.

Attorney Mike Piccarreta thinks the Taser International memo is really an attempt to shift responsibility if somebody sues. "What they want to be able to say is hey we told the police officers that this is a potential problem. If the potential problem erupts, Taser can say, we told them, they chose to do it anyway, it's their fault."

Partner of man who died after Taser strike sues police

Headline News

"We're alleging that the officer used excessive force when he shot the deceased from a few feet in the heart with a Taser, contrary to the direction of the Taser company." said the attorney representing the plaintiff.



Police Taser used on boy, 6, bring public outcry Headline Maws

Police shocked a 6-year-old-boy with 50,000-volt stun gun to keep him from hurting himself with a piece of glass he was waving around the school office, official confirmed Thursday.

Police say girl, 12, was jolted with Taser

Headline News

Police have acknowledged using a stun gun to immobilize a 12-year-old girl weeks after an officer jolted a first-grader with 50,000 volts. Police Director said Friday he could not defend the decision to shock the girl, who was skipping school and apparently drunk.





when an officer used a Taser to subdue a 75-year-old woman accused of trespassing at a retirement home. The Chief admits his officer should have used a lesser force option. The department has revised its Taser Policy.





Stupidity

- The definition of insanity is doing the same thing over and over again and expecting a different result.
- If an officer is not insane, but continues to make bad decisions, he or she is just plain stupid.
- Intellectually challenged officers fail to understand the relationship between the cause and effect of their bad decisions.

"You can't fix stupid." -Ron White



Angry off-duty cop waves his gun around after his Hummer is pelted with snowballs

The city's police chief slammed a veteran detective yesterday for pulling a gun during a mass snowball fight that had been advertised on Twitter.







Officer sues city, police leaders, exsupervisor over crotch-Tasing Headline News An incident last year in which a police supervisor shocked a subordinate officer in his genitals with a

shocked a subordinate officer in his genitals with a Taser has already cost the sergeant his job and state certification. Now the officer has filled a million dollar lawsuit against the city, the chief of police, and the former sergeant.



Man With Stage Four Lung Cancer Claims Excessive Force By Officer

Headline News

He left the hospital to die at home, but because he did not officially discharge himself, a critical missing persons report was issued to law enforcement.

A police officer approached him and attempted to get him back to the hospital. When he refused, the officer slammed him to the ground face down and cuffed him.

STUPIDITY



"Doug Hess, a witness to the accident, asked another police officer for Officer's badge number. This unidentified female officer replied 'shut the fuck up.' Hess was then arrested for his probing, although no official charges were ever filed against him.



Tasered 10-Year-Old Boy Sues Police

Headline News

An officer asked a group of boys which one would like to clean his patrol unit.

The boy raised his hand to say he did not want to clean the police officer's car.

"Let me show what happens to people who do not listen to the police." He then "shot his Taser gun into the boy's chest,"



Man says 'excessive force' used in tasing during fire

The man says police used excessive force last week when they tased him for trying to spray water on his neighbor's burning house.

The police ordered him to stop using the hose on the fire as it crept towards his property. When firefighters still hadn't arrived a few minutes later, he got the hose again. That's when officers tased him.



Police pepper spray eight-year-old child after he acted out in class Headline News After he refused to obey police, they sprayed him with pepper spray two times and handcuffed him.

Suit reinstated against cop who meant to Taser suspect

Headline News

A federal appeals court reinstated a wrongful-death lawsuit where an officer reached for what the officer thought was the Taser, but pulled a gun instead.

Previously, the officer accidentally put a pistol into the Taser holster.

A week later the officer intended to use the Taser, but pulled a handgun instead - pointing it at the officer's partner's head. Prior to the accidental shooting, the officer had received daily Taser training.



An Officer's Actions and Tactics Can Facilitate the Need to Use Force

- Proper tactics can sometimes prevent the need to use force.
- If you can prevent a shooting through the use of proper tactics, you can proactively prevent a wrongful death lawsuit.





Police Shoot Man In Wheelchair

The FBI will help investigate what led a police officer to shoot and kill a wheelchair-bound double amputee who threatened police with a ballpoint pen.

Officer shoots handcuffed suspect at close range, grazing the man's cheek

Headline News

- Officers handcuffed the suspect with his hands behind his back, searched him and put him into a patrol car. Then, he began shouting and "moving back and forth." When an officer opened the door to subdue him, a nearby officer fired his rifle at the suspect.
- Why the officer felt the need to use potentially deadly force was not known. The police have no evidence to suggest the shooting was accidental.



Defendant on crutches shot in courtroom

Headling News

- A man on crutches was shot during an altercation inside a courtroom. The man became unruly with the judge Thursday morning and apparently tried to grab
- a deputy's gun when he was shot twice.
- The man was on crutches after suffering a broken hip in an auto accident.
- A witness told the television station he thought the officer had used excessive force.

Appeals Court: Officer use excessive force. Suspect tasered twelve times - died at scene

Meadline News

- The Eleventh Circuit Court of Appeals ruled that the officers used excessive force when they tasered an unarmed suspect twelve times in two minutes.
- The officer reported that he might have tasered the suspect eleven to twelve times.
- In his justification, the officer stated he kept pulling the trigger until the suspect stayed on the ground.
- A forensic pathologist pronounced the suspect dead of "being struck by a Taser."

City settles Taser lawsuit for two million Suspect died after being shocked for fifty-four seconds Headline News

The city has settled a \$2,000,000.00 lawsuit with the family of a man who died after being tasered.

The suspect died at the scene after being shocked for fifty-four seconds.

The officer reported that she inadvertently held down the trigger for forty-nine seconds. Then, shocked the suspect again for five seconds more.

The medical examiner's office ruled the suspect's death as a homicide.

Tasered 86-Year-Old Wins Excessive Force Trial

Headline News

According to police, the elderly woman threatened them with a paring knife from her bed, allegedly proclaiming to have "killed four Japs in World War II" and "would not bat an eye" at killing them.

The Judge ruled the officers used excessive force on the elderly woman in Tasering her, in light of the fact that she was bedridden and on oxygen.



Man shot in his home by cops settles suit for \$480,000

Headline News

Officers admit they entered unannounced, were never threatened, and no weapon was brandished.

Hughes and a friend were sitting in the bedroom talking quietly when he heard an intruder. He called out and moved toward the hall to investigate.

When he saw a man holding a gun, Hughes raised his hands and stood still in the bedroom. He was shot in the upper arm by the officer.












Great-grandmother accepts \$40,000 in Taser settlement

Texas: 72-year-old great-grandmother Kathryn Winkfein was the recipient of a Tasering by a Travis County deputy after she refused to sign a ticket for going 60 in a 45.





Officer Convicted of Two Cou	nts of Assault
Statesman Jou	irnal
Salem officer convicted	
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Lawyers: Public Doesn't See Police In Role Of Bad Guys

Headline News

"People just don't want to believe that police lie." "Attorneys who file excessive force lawsuits say the nature of the injuries, backgrounds of their clients, and even what people watch on TV make it hard for them to win."

"The lawyers admit their clients often fail to present a sympathetic image to jurors. Many have criminal records or were stopped by police in connection with alleged misconduct."

PD loses excessive force lawsuit

Headline New

"There's nothing more difficult than a police case because people very, very much need emotionally to believe in the police," the plaintiff's attorney said, "It's a hard thing for jurors to believe that an officer used excessive force against a citizen."



Actions and Evidence that Damage an Officer's Credibility



Profanity

- Damages an officer's professional image.
- Creates the impression with the witnesses and jurors that the officer is out of control.
- Popular profane commands:
 - "Get the f..k on the ground!"
 - "Don't you f..king move!"
 - "I will f..k you up!"



Officers Disciplined For Use Of Profanity Caught On Tape

Headline News

"This badge is the only thing preventing me from skull f---ing you and dragging you down the street," one of the officers can be heard saying in the video.

"Don't suck my d----k here. all right," says one officer.

The driver was stopped for rolling through a stop-sign. Three of the four officers were suspended 15 to 20 days for profanity - a black eye for the chief and the department.

Bad language costs the city

Headline New

A federal jury awarded a man \$245,000, finding the officer falsely arrested him and then use excessive force to effect the arrest.

When a juror was asked about the verdict, she said what they found most shocking was the officer's use of profanity. The patrol car's video camera recorded an angry string of vulgarities made by the officer during the arrest.





It Sure Beats Killing People

City resident wins lawsuit

A federal jury award a local man \$96,000 in the civil rights trial that ended Tuesday. The jury concluded the officer used excessive force when the officer tasered the intoxicated man at a family reunion.

Jurors heard family members testify that when they asked the officer why he was the only one being arrested the officer replied "I only arrest the ugly ones."



Policy Violation

- A policy violation does not necessarily create a civil rights violation.
- A department can create a policy that is more restrictive than federal law.
- However, a plaintiff's attorney will portray the officer as an incompetent for not following or knowing your department's policy.

City settles pursuit lawsuit

Headline News

The city settled a lawsuit involving a high speed pursuit of a drunk driver that ended in a crash. The chief of police admitted that his officers violated several department polices: shooting at a moving vehicle, shooting out tires, and bumping the suspect vehicle from behind. The policy violations were cited as the reason for the settlement.



- Emotional shouting has the same effect on witnesses and jurors as profanity.
- Proper verbal commands are authority, clear, and direct a person to do something: "Don't Move!" "Get on the ground!"
- An emotional outburst is high pitched, emotes stress, and asks a question: "What the f..k are you doing?" "What the hell?" " Do you want your ass kick?"

Council settles lawsuit for \$80,000

Headline News

The city council voted to settle a lawsuit alleging an officer falsely arrested and used excessive force on a man during a traffic stop.

According to witnesses, the officer went "nose to nose" with the man in the street and shouted "Do you have anything wrong with your ears?" Then, the officer broke the man's wrist, handcuffed him, and then unarrested the injured man.



Cop's tough talk backfires in court

Headline News

A note to police: Watch what you say while making a stop, especially one that could be legally questionable, a fellow officer might be tape recording: "Stop shooting off your mouth to me. I'm not going to let three little punks walk all over me, I'm the one in charge here."

"You might be able to get away with smart-mouthing some of the younger cops but not with me, because I am not looking for a promotion and "I don't care about complaints," the officer is heard saying.

Rude Comments Between Officers

 Dark comments said between officers that are recorded on the car's patrol car video camera, sent via department email, or overheard by bystanders makes an officer appear unprofessional and insensitive.



Welfare check ends in lawsuit settlement

During a routine welfare check, the officers tasered a man after he opened his front door. The man fell face down and was injured. The officers stated the man attacked them.

In an audio recording of the moments following the tasering, the officers are heard using profanities while speaking with each other about how the check went awry. "The recorded comments would damage the officer's credibility at trial," the city attorney stated.



Cop not credible: officer faces eight counts of excessive force

Headline News

After the disturbance, the officer sent a computer message to a police dispatcher, saying, "Wow, that was fun." He also sent another computer message to another officer that said: "That was a hoot,"

"The officer's comments clearly shows that the officer enjoys using force on the citizens he is sworn to protect," the plaintiff's attorney stated in the civil complaint.

High Fives by Officers

A video of cops giving each other high-fives while standing over a handcuffed suspect looks bad.

The plaintiff's attorney will claim the officers view using force as some twisted sport to be celebrated.



Burglary suspect's arrest caught on tape Arresting officers seen giving each other "high-fives"

A news helicopter cameraman videotaped the foot pursuit of a suspected burglar by police officers. The chase lasted several minutes and took the officers through several residential backyards and over fences.

The video shows an officer kick the suspect as he laid face down on the ground and then officers giving each other "high-fives."



Bravado

- Not keeping his ego in check will come back to bite the officer.
- No one likes the puffed-up, full of himself, cop.
- Coming across as a pompous ass does not endear the officer to the jurors and it loses lawsuits.



1	A	No, sir.	The officer
2	Q	That's something different?	was asked
3	A	Yes, sir.	in his deposition if
4	Q	What is that?	he had used
5	A	Courtesy.	similar force
6	Q	Challenge the guy to a fight?	on a suspect
7	A	No. He challenged me.	prior to this
8	Q	And you took him up on it?	incident
9	A	I gave him the opportunity to fu	lfill his



Police sacked for Facebook posts

Headline News

- At least two police officers have been fired, seven have resigned and 150 faced disciplinary action after posting inappropriate photos or comments on Facebook in the past four years.
- Officers implied they had used excessive force on members of the public.
- Some revealed details of police operations, tried to befriend victims of crime or were caught in inappropriate photographs.



Excessive Force Suit Cites Officer's Face Page Comments Headline News

The man claims he was injured when the officer tackled him after kicking in his door.

His lawsuit cites comments posted on the officer's Facebook page about "messing with people" and suggesting laws were needed to send "stupid" people to jail. The officer resigned two weeks after his remarks came to light.



Lawyer Seeks To Probe Police Facebook Pages Evidence May Be Found In Facebook Posts

Headline News

- Fifty-seven police officers are under intense scrutiny after a lawyer demanded access to their Facebook pages.
- The attorney wants to know if the officers made inappropriate comments about the incident in which an officer shot and killed a suspect.
- City leaders looked at the officer's Facebook account and found that he put "human waste disposal" as his job description.



Hundreds of citizens turned out at a recent public forum on police excessive force

Headline News

"Incidents of excessive force would not happen if citizens complied with the orders of police, even if the officer was wrong." A representative of the Officer's Association said.



Threats of Arrest or Violence

Officers commonly use threats of arrest or violence to control and intimidate suspects and inmates.

Using a veiled threat by presenting a threat's options is a valid control tactic: "You can leave on your own or you will be arrested for trespassing."

Direct threats of arrest or violence make an officer appear angry and vindictive.



Jury Awards \$200,000

"Shut up. And if you say another thing, I'm gonna shoot you."

Headline News

The plaintiff alleged the officer used excessive force during the investigatory stop.

The police version of events were contradicted by two independent witnesses. The witnesses were sitting in their car 50 feet away. They were so unnerved by the cops' aggressiveness that they dropped their seats back so they could watch the drama play out.



Police Brutality Costs City Thousands police brutality costs city hall \$270,000

Headline News

"Be quiet, Don't you get in my face, pai, I will knock your teeth into the ground!," The officer warns.

The plaintiff's attorney, explains, "My client is taken to the ground. As a result he received, 4 broken ribs and a punctured lung."

The videotape was shot by the neighbor. It is unclear whether the cops knew they were being recorded.

Demeaning Comments Directed at the Suspect

- Making demeaning comments to arrested suspects is unprofessional and loses lawsuits.
- It makes an officer look small petty.
- Jurors do not like it.





Headline News

Warning to law enforcement officers: be careful what you say while using force.

A federal jury found a deputy's use of pepper spray to be excessive force when the deputy admitted to calling the pepper sprayed man a demeaning term as he complained of the intense pain to his eyes and face.

The man was pepper sprayed when he interfered with his girlfriend's arrest for failing to pay traffic fines.



City Settles Lawsuit With Protesters

Headline New

The city council has agreed to pay an environmental protester \$50,000 for an officer's use of papper spray. During a tree removal protest, the protester was papper sprayed after he used his belt to the himself to the tree. The city attorney recommended the city settle the case because the officers violated their papper spray training.

Criminal Conviction

 Damages an officer's credibility more than any other perception problem.





Headline News

On Friday a jury awarded \$239,000 to a man who suffered a ruptured bladder when a then-city a police officer, who is now in federal prison, allegedly kicked him while handcuffed at a police substation

The officer is serving a federal prison term of more than six years for violating Townsend's civil rights — owes the money from a legal standpoint.



Brutality settlement costs \$3 million

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. H The officer slammed the suspect's head into a wall and drove his knee into his back. As a result, the plaintiff became a quadriplegic for life.

Less than two months after arresting the suspect, the officer was charged with insurance fraud and fired.

"The officer's disciplinary record would have led to questions about his credibility if he had to testify before a jury," the city attorney explained.



City and County to pay \$1 million each in Fouad Kaady shooting death

Headine News

The family of a man who was unarmed, naked, burned and bleeding when police shot him to death has reached a \$2 million settlement with the city and the county.



Officer involved in shooting faces felony gun charge

Headline Nevis

One of the police officers who shot and killed a suspect outside a Costco last year, has been charged in a criminal complaint with unlawfully giving a handgun to a two-time felon.

Detectives later interviewed the officer, who admitted giving the felon a "beat up" .22-caliber Ruger.





Jury Verdict Not Excessive

Headline News

In a case involving the beating of a sixty-seven-year-old man by a police officer, the judged determined that the \$360,00 jury verdict was not excessive.

The jury found the officer civilly liable for using excessive force by repeatedly striking the man in the face with his fists while handbuffed.

The jury awarded the plaintiff with \$60,000 in compensatory damages and \$300,000 in punitive damages.



City settles lawsuit a day before the trial is to begin.

neadine News

The city has paid \$225,000 to a young woman whose jaw was broken by a cop after she called him a "rookie" when he prepared to arrest her for riding her bike on the sidewalk, the Daily News has learned.

NEWS



Lawsuit settled last day of trial to prevent a jury verdict

Headline News

The county settled the lawsuit on the third day of trial to prevent a larger jury verdict.

The lawsuit was settled after the jurors heard testimony that the neck restraint that the deputies used on the (now brain damaged) inmate was defined as deadly force per the sheriff's department use of force policy.

A juror stated they were prepared to issue an 8 million dollar verdict.





Lawsuit: police officer injures mentally disabled man

Headling News

The A local mentally disabled man who walked away form a group home had his arm broken by a police officer during an altercation.

"If the officer had received training in effectively dealing with handicapped cilizens, this tragedy could have been avoided," the handicapped man's attorney stated





Former Officer Guilty of Police Brutality

Dash cam video showed the officer striking Bell with his baton, Bell was left with multiple bruises and needed seven stitches to close a gash on his ear. "I'm not saying Mr. Bell is a upstanding citizen, However, if a picture is worth a thousand words, the video speaks a million," said Judge Fecarotta. "I just can't get beyond that video."



Police Officer's Firing Upheld

Headline News

A judge upheld the commissioner's firing of an officer who was caught on video berating and pushing a 14-year-old skateboarder.

The officer's vitriolic lecture was captured on video and surfaced on YouTube.

"Obviously your parents don't put a foot in your butt quite enough because you don't understand the meaning of respect," the officer shouted.



Officer From Stomping Video Recorded Flipping Off Suspect

Headline Ne

That same police officer who was videotaped as he kicked and said to a Latino suspect that he would "beat the f***ing Mexican piss" out of him has been caught in another embarrassing situation.

The video shows the officer angrily flipping the bird at a detainee as he argues with the handcuffed man. The talk gets so heated, a fellow officer steps in to tactfully intervene on two occasions -- once at the cell door, and again after the officer continues to rant from across the room.

Too quick with their hands

jurors rebuke sheriff's deputies for head punch

A federal jury ruled two jail deputies used excessive force

The jurors were shown a jail surveillance video that captured two jail deputies beating a man at the booking desk

"We all agreed that the blows to his head were excessive force," said a juror.



Trooper, Paramedic Fight Caught on Tape Headline News A Highway Patrol trooper

and a paramedic were caught on tape scuffling. The plaintiff's attorney said that the trooper's statements are not to be trusted since his written use of force report on the paramedic choking case was discounted by the video.

IFW



Man whose video recorded beating changed how police handle use-of-force incidents has filed a excessive force lawsuit

Headline News

An officer wrestled him to the ground and called for backup. At least six officers punched and kicked the plaintiff as he lay face down in a snowbank, and one officer stunned him three times with a Taser.







Caught on tape: Woman says deputy used excessive force and lied in report

Headline News

A Target store surveillance tape shows the deputy grab the woman, slam her up against a wall and throw her to the ground.

The deputy said the woman was arrested after she threw her hands in his face, screaming and cursing at him.

After watching the video, the District Attorney's Office dropped both charges.



YouTube Video Sparks Outcry, Officer on Administrative Leave

Headline News

The video shows a young woman approach the officer and he strikes her several times with a baton.

The video also shows that the woman was pepper sprayed and for several seconds appears disoriented and moves away. That's when the officer grabs her by the belt on her trousers and forces her to the ground.



Lawsuit claims chief concealed video showing excessive force

A camera inside a nearby liquor store showed the man in handcuffs as two police officers held him down while another "strangled" and "punched" him in the face. Damaging Audiotape Evidence

Attorney claims tapes are smoking gun of excessive force

Headline News

The audio tapes were recorded during the altercation over the arresting officers car-video microphones.

'Put me down, put me down. They hit me when I'm down. They're going to kill me," is heard on the tape. Then the tape goes off.



Cop Caught On Tape Saying "I'm Gonna Make Stuff Up"

Headline News

A police officer has been caught on audio tape threatening to falsely charge two suspects with a robbery saying, "I'm gonna make stuff up."

The two suspects filed a lawsuit against the city for wrongful arrest and excessive force, claiming that an officer kicked one suspect in the face. For some mysterious reason, dashcam footage of the the assault disappeared.



City settles lawsuit: Man gets \$250,000 over officers' recorded comments

Headline News

Officers Tasered a naked intoxicated man, The free fall onto the pavement crushed his skull. Now, he suffers from memory loss, slurred speech, and vision problems. The officers' patrol car video camera recorded the officers using profanity while discussing how the tasering had gone badly.

The plaintiff's attorney cited the audio recording as evidence the officers used excessive force.











Student wins Lawsuit after confrontation with police officer at Denny's

Headline News

The server who waited on the students, testified that the officer "burst through the doors" and "seemed angry" from the moment he came in.

The server was standing 10 feet from the table and expressed concerns about the officer's response. The officer told the server that if she filed a brutality complaint, the police might not come the next time there was a problem, she testified.







Sheriff's Deputy has a history of being sued over force - Deputy has cost the county hundreds of thousands

Headline News

The deputy has cost the county \$400,000 in lawsuit settlements. In his first lawsuit, the deputy's dog attacked an innocent bystander. Then, the deputy assaulted a suspect and a witness at the county fair. A year later, he falsely arrested a woman and menaced her with his handgun. Ten months later, the deputy tasered an innocent driver in his driveway during a foot pursuit.

His latest legal problem came when he was arrested for assaulting his wife at the sheriff's office.

Lawsuit Claims Police Brutality

Headline News

Four college students are seeking \$1 million in damages.

The charges against the driver were dropped.

"This kid didn't do anything wrong. He reached for his wallet, the cop pulled him out of the car, held the four kids at gunpoint. The kid complied, want right to the ground... it's the cop's fault." the prosecutor told the judge.



View Of Force



Los Angeles Co. Sheriff's Dept. Psychological Unit's study of excessive force.

- "Untouchables" 15% will never intentionally do anything wrong.
- "Already Gone" 15% will never do anything right, regardless of supervisory efforts.
- "Fence Sitters" 70% can be influenced by the dominate group at the scene.

Released video shows officers beating of a teen burglar

Headline News

A half-dozen officers appear to attack the fifteen year-old, as he laid face down, with their fists and feet, After another series of blows, he is handcuffed and leaned over the back of a police car. Four officers were indicted on misdemeanor charges and fired. Two officers and a sergeant were fired without being charged. Five additional officers received two-day suspensions.

Excessive force suit against trooper settled for \$250,000

Headline News

The state has settled another lawsuit against a state trooper whose actions already cost the state more than \$28 million.

Previously a federal jury found the Trooper liable for fatally shooting a 12 year-old boy, as he ran from a stolen vehicle on Christmas Eve. The jury awarded the boy's family \$28 million.



Police logs 13 claims of excessive force this year Headline News

A police officer used a Taser on a man who was handcuffed and standing still, as two other officers stood nearby.

It was the fifth time a use of force complaint against the police officer was sustained after an investigation. In the past 4 years the department has received 69 complaints about an officer using excessive force.



Officer accused of excess force in \$300,000 suit Headline News A police officer, whose shooting of a man two years ago cost the city a half million dollars, was in court

again on claims he and several other officers used excessive force.

In another ugly video, a police officer plays the villain

Headline News

The hospital surveillance video shows the officer whack the handcuffed suspect twice in the head with his baton, then yank him to the floor and hit him again. The suspect filed a complaint after the incident and the officer was found to have violated police procedure something that he's done often. The department has upheld at least a dozen complaints against the officer.

City Pays Off Elderly Resident In False Arrest and Excessive Force Suit

Headline News

The city settled with an eighty-four year-old city resident who claims he was falsely arrested and the police used excessive force.

After a property boundary dispute, his neighbor reported to the police that he had menaced her with a gun.

Unfortunately for the elderly man, the neighbor lied to the dispatcher and the police did not interview her before arresting the man.

NEWS

Trust, but Verify

Except from the on-scene supervisor's deposition

"Well, when I arrived, I went up to this lady that was standing by her fence and said, he has a gun. So, I confirmed now that there was a gun. It was quick. She confirmed what dispatch told me on the air. So, then I just went over to the officers."

Proactive role the supervisor plays in minimizing department liability

- Mentor
- Diplomat
- Performance Coach
- Use of Force Instructor



Supervisor may be your title, but leadership is what effective supervisors provide their officers in properly managing the use of force incident.

Power of An Apology

- Supervisors play an important role in positively influencing perceptions at the scene of a use of force incident.
- Many use of force complaints can be circumvented at the scene by a supervisor skilled in managing the use of force incident.
- As an on-scene supervisor, you are in a position to prevent formal citizen complaints and lawsuits.

Boy Tasered and Bitten by Police Dog while waiting for the School Bus

Headline News

The boy was waiting for his school bus when police "drove into his yard without any activated police lights". The boy was bitten by a police dog and several officers then Tasered him.

Police went to the wrong location. When they realized their mistake, the officers told the boy "Maybe next time you'll listen." The officers then departed without an apology, according to the suit.



Witnesses: Police Beat the Homeless Man

Fiesdline News

"We ware expressing an interest in just filing some paperwork with the police department, saying 'This was my view of the events.' And when the sergeant came over to supposedly help us with that process, it didn't seem to us that he was very interested in our input on the matter. He was really hostile," the witnesses to the beating told the newspaper reporter.



Many supervisors - believing they are supporting their troops - miss an opportunity to prevent a lawsuit by simply offering an apology.

The phrase " I don't apologize when my officers are right" has been the catalyst for more than a few lawsuits.

Don't apologize for the tactics - explain them.

Apologize for the inconvenience and discomfort you may have caused them.

Most citizens only want you to acknowledge how they feel.

Couple mistaken for burglary suspects sues police department

Headline News

The married couple who were taken down at gunpoint and handcuffed as they loaded previously purchased patio blocks have filed a lawsuit against the department, the officers, and the on-scene sergeant.

The blocks had been left outside the security fence on pallets for the couple. Even as they told the officers that they had a payment receipt, the husband and wife were handcuffed and searched.

City to pay \$350,000 and the County to pay \$450,000 in an out of court settlement

Headline News

The city and the county have agreed to out of court settlements totaling \$800,000.

The incident started with a reported purse snatching at a roadside rest-area. It ended with a federal parole officer and his family handcuffed at gunpoint and his son's shoulder re-injured.

The family filed both excessive force and ADA lawsuits in federal court.



Don't Let The Little Things Slide

The first proactive supervisory step in minimizing citizen complaints and excessive force lawsuits is not letting the little misbehaviors go uncorrected.

> Bad Cop No Donut

Don't Let The Little Things Slide

You establish what is acceptable and what is unacceptable by what behaviors you address or ignore.

By addressing the small missteps and misbehaviors, you prevent more dramatic misbehaviors from occurring.

LET'S PLAY BAD COP WORSE COP

Scenario

You observe an officer intentionally apply more force to the wrist of a handcuffed suspect than is necessary as he walks the prisoner to the patrol car.

Why did the officer crank on the suspect's wrist?

To punish the suspect for being a drunken idiot.
The officer believes he can get away with it.

PTO ELECTION ASS TAWAY WITH IT.

By not addressing the officer's misbehavior you unintentionally do four things:

- You send the message to the officer that it is acceptable to inflict unjustified pain on a suspect.
- You send the same message to the other observing officers.
- You are ensuring that future arrested suspects will be subjected to similar mistreatment.
- You are creating an environment where more severe levels of unjustified force are likely to be used.



Don't Let The Little Things Slide

By confronting an officer for intentionally applying too much pressure to a handcuffed suspect's wrist, you are preventing the officer from Tasering or striking a handcuffed suspect or shooting a restrained suspect with a bean bag projectile in the future.



Don't Let The Little Things Slide

- By addressing the least significant use of force issues, you accomplish four things:
- You protect the members of your community from the use of unnecessary force.
- You protect your officers from punitive disciplinary action.
- You protect the department from excessive force litigation and the subsequent damaging media attention.
- You protect yourself from disciplinary action for not intervening.

Officer fired and supervisors suspended over shooting

Headline News

At the recommendation of the review board, the officer who killed the suspect was fired. The officer who shot the suspect with less-lethal projectiles received a two week suspension and the on-scene supervisor received one-week suspension without pay. The on-scene lieutenant and captain received written reprimands.

Coaching and Not Criticizing

Effective supervision is a fundamental element in preventing excessive force by officers.

However, supervising officers is a tough job. They are an independent, ego invested, never wrong, union protected group who do not take criticism well.

Further, the traditional disciplinary process is modeled after the criminal justice system: the wrongdoing must be followed by a punishment.



The problems that occur when using the CJ system's punishment philosophy to correct officer misbehavior:

- Discipline is often not consistently applied for the same policy violation.
- Over time, treating officers like traffic violators loses its ability to change behavior.
- Supervisors often see the progressive disciplinary process as the start of an officer termination and not an employee rehabilitation.

Provide fair treatment - not equal treatment

Coaching and Not Criticizing

· A coaching session is an organized conversation between you and the officer regarding the need to correct a behavior.

 An effective coaching session has specific objectives and follows a previously developed outline.

- A coaching session should only address one behavioral problem at a time.
 - Addressing more than one problem diminishes the effectiveness of the coaching session.



Coaching and Not Criticizing

The coaching process consists of four distinctive phases:

- Pre-counseling preparation
- · Supervisor and officer conversation
- Agreement documentation
- · Behavioral monitoring



Precounseling Preparation

List the performance problem as the title in the coaching outline. In managing the use of force incident, there are six performance categories:

- Tactics
- Evidence Collection
- Verbalization Incident Documentation

- Use of Force
 Perception Management



Once you have identified the misbehavior, list in your coaching outline the established standard of conduct and the difference between the officer's behavior and the standard.

Policy: Officers will treat all citizens with respect and conduct themselves in a professional manner

Behavior: On August 12th, during the arrest of Samuel Jones, I overheard Officer Michael Brown call Mr. Jones a "dumbass" as he handcuffed Mr. Jones.

Precounseling Preparation

Policy:	Officers will not deploy the Taser in probe mode to a handcuffed suspect or inmate.
Behavior:	On October 3rd, during the DWI arrest of Brad Webber, Officer Mary Johnson tasered Mr, Webber as he laid handcuffed face down on the pavement.
Policy:	Officers will properly collect and store all evidence of a Taser deployment in probe mode.
Behavior:	On Nov. 5th, Officer Bill Williams improperly collected Taser evidence by wrapping the leads around the spent cartridge.

Supervisor and Officer Conversation

The coaching session is referred to as a supervisor and officer conversation because the discussion is an informal behavioral intervention and not part of the punitive disciplinary process. The conversation has four goals:

- To inform the officer that his/her conduct does not meet the department's performance standards.
- To eliminate the behavioral problem without implementing formal disciplinary action.
- To gain the officer's agreement that the behavior was inappropriate and it will not be committed again.
- The proactive prevention of citizen complaints and lawsuits.

Supervisor and Officer Conversation

- Start the session by informing the officer that you have a concern - this approach establishes and informal tone.
- Keep in mind this is a coaching session and not an inquisition. This is less likely to make the officer defensive.
- Comment on all the positive aspects of the officer's job performance. This will make the officer more receptive to your corrective criticism.
- State your concern and ask for the officer's help in solving the performance problem
- Go into the coaching session with an open mind. There may be facts or mitigating circumstances unknown to you.

Agreement Documentation

After the conversation, the details need to be memorialized. The agreement documentation should consist of the following:

- The officer's name, date and time of the coaching session, and the location where the session was held.
- The misbehavior, if applicable, the policy violated.
- A factual, nonjudgmental, description of the officer's behavior or performance problem.
- A detailed account of what the officer agreed to do to correct the problem.
- The outline and agreement documentation should be kept in a supervisory file for use in subsequent coaching sessions.

Coaching and Not Criticizing

By continually providing your officers with positive feedback and correcting their mistakes as they happen, six things will occur:

- Their overall performance will continue to improve.
- They will be more motivated and committed to the mission.
- It will remove the anxiety, fear, and negativity out of the their annual performance evaluation.
- They will receive superior annual performance evaluations - because they have had months to correct any problems.
- Their annual performance evaluation will become effortless to develop and administer.

Supervisor as a Use of Force Instructor

- Mentoring officers in properly managing the use of force incident occurs at the scene, in coaching sessions, and in the form of group discussions.
- Group discussions are the most efficient and least often-used method for mentoring officers in the proper use of force.
- The belief that a two-hour use of force update given during annual inservice training is sufficient to minimize liability is misguided at best.

Supervisor/Use of Force Instructor

- Training in the proper use of force needs to be ongoing and continually reinforced to be effective.
- The first-line supervisor is in the perfect position to make this happen.
- The frequency in which use of force incidents occur creates a fertile environment for conducting continuous use of force training in the form of a facilitated incident debriefing by the first-line supervisor.

Supervisor/Use of Force Instructor

The supervisor facilitated debrief is one of the most effective methods for conducting continuous use of force training for the following reasons:

- The debrief is conducted at the squad or team level, giving you control over the timing of the debrief.
- The officers were active players in the use of force incident; consequently, they have a personal investment in the discussion in what was done right or wrong.
- Through Socratic facilitation, you guide the officers to the proper conclusions.
- The sharing of the officers' perspectives and experiences enhances the effectiveness of the use of force training.

Supervisor/Use of Force Instructor

- The post-use of force incident debrief is a formalized training session that is specific to your particular team.
- Unlike a classroom lecture, the conversational structure of the debriefing allows all the team members to explain their roles and explore how that role had a positive or negative effect on the incident.
- The debriefing is not a formal corrective counseling session. Although mistakes and solutions are identified, the main purpose of the the discussion is to make the officers self-aware of what was done well and what improvements need to be performed during future use of force incidents.

Supervisor/Use of Force Instructor

- The post-use of force incident debriefing has six goals:
- Provide continuous use of force training.
- Provide a timely peer and supervisory review of the use of force incident for continuous use of force improvement.
- Reinforce team members' proper use of force decisions
- and their proper management of the use of force incident.Provide collective solutions to the improper use of force.
- Conduct a peer review of the collected use of force evidence and their use of force reports.
- Minimize officer and department liability through team self-evaluation and self-improvement.

Federal use-of-force review prompts police to increase sergeants' oversight

Headline News

Spurred by federal DOJ investigation, the chief is changing how first-line supervisors investigate officers' use of force.

Supervisors are receiving two hours of training this week and next to learn how to secure or photograph evidence, obtain statements from officers and witnesses, and document it all in a use of force after-action report that would be forwarded to an assistant chief.



Guidelines for Conducting the Use of Force Incident Debrief

- · Prepare for the debriefing:
 - Review the officers' reports and have a copy of each report for each team member.
 - Develop an outline with two lists: one of proper actions and the other of issues or problems.
 - With experience, you will develop an outline that compliments your facilitation style.
- · Have all your ducks in a row:
 - Have your supporting material organized and accessible: policies, tactical guidelines, and training manuals. Referring to this material gives credibility to your critique and opinions.

Guidelines for Conducting the Use of Force Incident Debrief

- When critiquing an officer's use of force, discuss what was done right, first:
 - This is the "Golden Rule" of coaching, counseling, facilitating, and training.
- By using a positive approach, the officers leave the debriefing acknowledging that some mistakes were made, but overall their performance went well.
- Do not place blame:
 - Promote personal accountability, not personal condemnation.
- An officer's opinions on tactics and use of force rise to the level of a religious conversion.

Guidelines for Conducting the Use of Force Incident Debrief

- · Identify problems and seek solutions:
- Characterize officer mistakes as problems to be solved.
- This approach helps depersonalize the misbehavior or mistake and promotes acceptance.
- · Frame the incident for the officers:
 - Providing a short summary of the incident establishes a starting point for the discussion.
 - Framing the incident is important when officers are present at the debriefing who were not involved with the use of force incident.

Guidelines for Conducting the Use of Force Incident Debrief

- Have each officer explain his/her involvement in chronological order:
 - · Establishes an order for officer participation.
 - Allows you to to focus the discussion on that specific officer's actions and force justification.
 - Allows the team to discuss the incident as an interconnected sequence of events.
 - Provides you with greater control over the pace of the debriefing.

Guidelines for Conducting the Use of Force Incident Debrief

- Use a Peer Jury to evaluate the officer's actions:
 The benefits of using a Peer Jury:
 - Depersonalizes your critique. You do not find fault it is the Peer Jury's opinion that the force or actions were improper.
 - Creates an active learning environment. The team plays an active role in identifying problems and solutions.
 - Team members vicariously learn from their evaluation of what the officer did right and wrong.
 - The Peer Jury's support of your evaluation gives credibility to your critique.

Guidelines for Conducting the Use of Force Incident Debrief

- When Facilitating the debriefing, guide your officers to the proper conclusions:
 - Just because the group comes to a consensus, it does not mean their assessment is correct.
- It is your responsibility to subtly point out the flaws in their logistic.
- Not correcting an ill-conceived Group Think solution can lead to liability problems in future incidents.

Twelve Litigation Proven Rules for Managing the Use of Force Incident



Rule One

Determine if the action is worth the risk of injury to the officer or the Threat?

- Is the forthcoming response motivated by anger?
- Is the officer's decision to place him/herself in harms way based on a calculated risk?
- What is the probability that the officer will be disciplined, civilly sued, or criminally prosecuted?
- Does the level of the offense or the person's behavior justify the risk of serious injury to the person?

Rule Two

Use the least amount of force necessary to accomplish the legitimate corrections or Law Enforcement objective

- Graham v. Conner requires an officer's force to be "objectively reasonable."
- What is an objectively reasonable amount of force to use?
- The least amount of force is always objectively reasonable.

Rule Three When using force give the appropriate verbal commands

- Witnesses often do not see the actual use of force, but they hear the officer's verbal commands.
- There is nothing better for an officer's defense than to have an independent witness(es) tell the jury how professional the officer was when confronted with a dangerous or volatile situation.

Police identify shooting victim

Wilness: Man ignored warnings by forst human The the international to the second of the second o

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Rule Four When using force, avoid using profanity, sarcasm, and bravado

- Profanity makes an officer appear angry and out of control.
- Sarcasm makes an officer sound like a vindictive jerk.
- Bravado makes an officer look and sound like a pompous ass.

A jury must like the officer to get a defense verdict.

Rule Five Inquire about injuries the suspect/inmate may have received before officer contact.

- Every injury the suspect/inmate has will be blamed on the officer's use of force.
- An officer doesn't have a defense if he/she doesn't ask about previous injuries.
- It makes the officer appear caring to the jury.

Caring officers don't use excessive force.

Rule Six Photograph all officer and suspect/inmate injuries

- Jurors learn from watching CSI that injuries are photographed.
- If the officer doesn't take photographs, the plaintiff's attorney will claim he didn't take photographs to cover up his use of excessive force.
- Photograph the suspect/inmate's injuries after he/she has received medical treatment.
- Photograph officer injures before receiving treatment.







Rule Seven Charge the suspect/inmate with the appropriate crimes

Jurors expect a person who resists arrest or assaults an officer to be charged with a crime.
If an officer don't charge the suspect with the appropriate crimes, the plaintiff Attorney will claim the resistance or assault did not happen and the officer fabricated the resisting/escape/ assault story only after he/she was notified that a civil lawsuit had been filed.

Charge the Suspect with the Crime		
6	Then in dealing with Miss Pentana and her	
$\tau_{\rm c}$	spreaming and trying to kick out the back of the police da	
£	winnews, it just - it appeared to me she was more of a	
1	procrem than he was, and is chypedv had to go to gail	
0	conight I thought that she's the one who proceably should p	
	to gail. Since this guy was under control, I determined a	
2	that time i'd probably do him a favor and just let him go.	
к,	2. So you made that decision while Fontana was being	
4	a problem person	
5	A Yes,	

Motorist seeks \$600,000 from police altercation

Headline News

A 45-year-old man seeks more than \$600,000 in damages after a police officer broke his jaw and ribs during a traffic stop. He was pulled over for a burned-out headlight.

The officer pulled the driver out and threw him on the pavement.

The driver was arrested on suspicion of resisting arrest and driving without a valid license. He was never charged with resisting arrest.

Rule Eight If injured (even slightly) seek medical attention

- It gives credence to an officer's claim that the suspect or inmate fought, resisted arrest, or attempted to escape.
- Paramedics, doctors, and nurses have tremendous credibility with jurors. Their testimony can be very important to an officer's defense.
- · Medical fees are covered through workman's comp.

Seek Medical Attention - This Suspect Did OFFICE EXAMINATION - GRESHAM September 14, 1994 RE: CHIEF COMPLAINT: Left wrist 's a 28 year-old woman seen in the office today having been referred from M Hood Medical Center Emergency Room where the presented on the 9th complaining of left (nondominant) wrist puin. When asked the mechanism of injury, Ms 's response was that it was due to "excessive police force" Evidently her wrists word wisted behind her back. I did not go into the circumstances nurrounding this. She went to the comprome was word but and. Those are available for roview and show a linear defect in the distal most aspect of the radial styloid. A uplint was provided as was a prescription for Tylenol #3 which she states that the lost when her purse was stolen.

Rule Nine Collect the officer's damaged or soiled uniform as evidence

- The actual bloody, muddy, and torn uniform is much more effective evidence than photos of it.
- The presentation of the actual uniform to the jury brings a threedimensional reality to the level of the intensity of the physical altercation.



Rule Ten Explain the necessity for the force to onlookers and potential witnesses

- Onlookers and auditory witnesses process what they observe and hear through a filter of their past
 experiences with law enforcement officers.
- Also, witnesses' perceptions are formed through their limited knowledge of the incident and influenced by what they personally experience, hear, or observe at the scene.

Attorney: "Excessive force" used

Lawyer says witness accounts contradict police version

"Numerous witnesses saw the event unfold and have different accounts (than police) about what was said and done," the attorney said. "At least two videoed the event and we will be comfortable with the information if we go to trial."

"We are being blindsided by all these claims," the police chief said. "But not a single person has come forward to make a complaint against an officer. There's a lot of stuff being thrown around in the public media and the social media."

Residents reached by the reporter gave conflicting accounts about who started the fight (police or plaintiffs).

Rule Eleven Do not allow an officer to make any statements without an attorney present

- Police shooting are investigated as homicides.
- Serious use of force and officer misconduct allegations are investigated as crimes.
- Officers under extreme stress experience time and distance distortion, memory lapses, event confusion, and over time can more accurately recall the sequence of events.

Excessive-force saga may hold lessons

Headine News The trial began in October, more than 5 ½ years after the use of force. The officer' attorney told jurors his client "got some things out of order" in his interview with detectives. "Now he gets called a liar."

Rule Twelve The Garrity Rule does not apply to civil lawsuits

 The U.S. Supreme Court's Garrity Ruling only protects officers from self-incrimination in a criminal proceeding. Stress induced inaccurate statements will be used against an officer in the subsequent civil lawsuit. Officers should qualify their statements with:

"I have just experienced a traumatic incident; consequently, my recollections of what happened in this incident may not be accurate."
Example Garrity Warning Form

I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations or for my fitness for duty. This investigation concerns: (list the incident and case number).

I have been ordered by my agency to answer all questions under the threat of discipline, If I refuse to answer, I may be subject to discipline for that refusal which can result in my dismissal from this agency. No answer given by me, nor evidence derived from the answer, may be used against me in any criminal proceeding, excep for perjury or false swearing.

I understand that I must now answer questions specifically, directly, and narrowly related to the performance of my official duties or my fitness for service. Anything I say may be used against me in any subsequent department discipline or

civil lawsuit. 1 have the right to consult with an attorney, a representative of my bargaining unit, or another representative of my choice and have him or her present during the interview.

Officer's Signature:

Department Representative's Signature:

Date and Time:



Perfect Police Report

On the above listed date and time, I contacted Orville Smith (a store manager for Best Buy). Mr. Orville stated he observed a male customer, later identified as Tyrone Jackson of Augusta, GA., on surveillance cameras putting a laptop computer under his jacket. When confronted, the man became irate, knocked down an employee, drew a knife, and ran for the store's front door.

Outside on the sidewalk were four Marines collecting toys for the "Toys for Tots" program, Smith stated when the Marines stopped the man, he stabbed one of the Marines (Cpl. Phillip Duggan) in the back; the injury did not appear to be severe.

Mr. Orville called the police and for an ambulance. Cpl. Duggan was transported to the hospital for treatment.

The suspect was also transported to the hospital with two broken arms, a broken ankle, a broken leg, several missing teeth, possible broken ribs, multiple contusions, assorted lacerations, a broken nose and a broken jaw...injuries he sustained when he slipped and fell off of the curb after stabbing the Marine. Photos of Cpl, Duggan's and the suspect's injuries are submitted with this report.



incident, it is critical that the officer make the paradigm shift from being an objective reporter of the facts to a proactive defendant in a potential lawsuit.



Mr. Jones fell to the ground incapacitated by the Taser shock. As per Graham v. Conner, an officer can use nondeadly force if the suspect poses an immediate threat to an officer or others. Furthermore, per Graham, an officer must take into account the severity of the crime the suspect has committed and whether the suspect is actively resisting arrest.

I deployed my Taser because Mr. Jones presented an immediate threat of serious physical harm to me through his superior size and strength he is six feet and five inches tall, weighs two hundred and forty-eight pounds, and has a body builder's physique,

Further, I feared for my safety because Mr. Jones had previously committed a violent crime by punching and kicking another patron in the bar - causing as serious head injury.

Lastly, he resisted arrest through a verbal threat to assault me: "If you try to take me to jail, I will kick your ass."

Detective: Did you intentionally shoot Matt Johnson? Officer: Yes, I did.

Detective: Why?

Officer: Tennessee v. Garner allows a police officer to use deadly force to protect himself when he reasonably believes the suspect poses an immediate threat of death or serious physical harm to the officer.

Mr. Johnson refused to drop the knife that he held in his right hand. He held the knife out in front of him and made thrusting motions toward me. After refusing to obey my verbal commands to "Drop the Knife," he continued to advance toward me. When he was within twenty feet of me, I shot him twice in the chest. I did so because, as per Tennessee v. Garner, he presented an immediate threat of serious physical harm or death to me as he advanced toward me with the knife.

Particularized Narrative Format

The use of enumerated particularized elements to describe your observations, your actions, and your force justification is what distinguishes the Particularized Format from the traditional, block narrative, report writing method.

Particularized Narrative Format

- Provides a more complete and descriptive explanation of what happened.
- Gives the use of force report a more professional appearance.
- Assists in describing the incident in chronicle order.
- · Clearly explains the use of force justification.
- · Clearly describes the application of force.
- Makes the report easier to write, read and comprehend.

I told Markus Adams that he was under arrest for domestic assault. I told him to face away from me, interlock his fingers behind his back, and not to move. Markus Adams refused to follow my verbal commands by doing the following:

- 1. Instead of turning around, he stepped back with his right foot into a bladed stance.
- $2_{\rm \oplus}$ Markus' face turned bright red and his lips started to quiver.
- $3_{\rm e}$ Markus balled his hands into fists and tensed his arms at his sides.
- 4. In a loud and threatening voice, he told me "Fuck you! I am not going to jail!"

I moved to the north side of the living-room and placed the sofa between Markus and I as a physical and psychological barrier. At this point, Markus and I were approximately ten feet apart. From behind the sofa, I did the following:

- 1. I pulled my Taser and placed the laser dot/sight on Markus' lower abdomen.
- I order him to "Get down on the ground!" Markus yelled "I will kick you fucking ass!" (as he moved around the sofa toward me).
- 3. I fired my Taser both darts hit him in the front lower torso. He fell to the floor face down.

- I chose to deploy my Taser for the following reasons:
- Markus had previously assaulted his live-in girlfriend (Sara Williams). I was afraid that if I attempted to control him with a comealong technique he would assault me.
- 2. I was told by Sara Williams that Markus is a black belt in Ju Jitsu. I have only had eight hours of police ground defense training, and I was afraid that if I grappled with Markus he would take me to the ground and choke me unconscious, disarm me, and kill Sara Williams and me with my duty handgun.

Ľ.

After Markus was stunned with the Taser, I did the following:

- 1. I ordered him to "Place your hands behind your back! Don't move!" He complied.
- 2. I removed the spent Taser cartridge and placed it on the floor and loaded a new cartridge.
- 3. I holstered my Taser, pulled my handcuffs from my belt, and told him to "Raise your right hand!"
- 4. I moved to Markus' right side and grabbed his right hand with my right hand (palm to palm).
- 5. With my left hand, I placed the handcuff on his right wrist.

- I pinned him to the ground by placing my right knee on the back of his neck and my left knee on his back - I straddled his handcuffed arm.
- 7. I handcuffed his left hand, checked the handcuffs for the proper tightness, and engaged the double lock.
- 8. I intrusively searched Markus for weapons in the prone position, I did not find any weapons.
- 9. I removed the Taser probes from Markus' body and swabbed the areas punctured with an alcohol packet.
- I photographed Markus' Taser marks, the Taser probes and wires, and the blast doors and afids in the locations where they were found.

Key Elements of a Use of Force Report

- Note: weather/lighting conditions, pedestrian/ vehicular traffic congestion or flow, availability of Back-up, your distance from the Threat.
- Describe how you applied the technique or force option.
- Explain why you used that method, technique, or level of force. Not what, but why!
- Avoid general terms: aggressive, threatened, resisted, struggled, etc.. Instead, describe in detail the person's behavior/actions which necessitated the force.

Key Elements of a Use of Force Report

- Describe the Threat's physical size and appearance. Include facial expressions, threatening gestures, pre-existing injuries.
- Describe the scene of the incident in detail. Include environmental weapons, physical barriers, and specific locations.
- Identify the Officer v. Threat Factors and Influential Circumstances which necessitated the force.
- Describe the First Aid/Post-Force Care given.
- State the legal standard as part of the use of force justification.

Ninth Circuit Court of Appeals Taser Cases Brooks and Mattos

"Ultimately, the " 'most important'" *Graham* factor is whether the suspect posed an " 'immediate threat to the safety of the officers or others.' " *Smith v. City of Hemet*, 394 F.3d689, 702 (9th Cir. 2005) (en banc) (quoting *Chew v. Gates*,27 F.3d 1432, 1441 (9th Cir. 1994)). We explained in *Deorle* that when we consider whether there was an immediate threat, a "simple statement by an officer that he fears for his safety or the safety of others is not enough; there must be objective factors to justify such a concern." 272 F.3d at 1281."

Officer vs Threat Factors

- Officer's vs. Threat's Combative Skill Level
- Officer's Gender vs Threat's Gender
- Officer's Age vs Threat's Age
- Size and Strength
- Multiple Threats
- Mental State

Influential Circumstances

- Injury or Officer Exhaustion
- Close Proximity to a Weapon
- Terrain or Environment
- Spontaneous Attack
- Previous Experience
- Special Knowledge
- Officer Disability
- Confinement
- Distance



Use of Force Report Forms

- It is recommended that a specific Use of Force Report Form not be used.
- The more reporting forms you use the greater chance it will be lost or it will contain conflicting or inaccurate information.
- If you choose to use a separate Use of Force Reporting Form, use it for gathering statistical information only.
- Do not have a narrative section in your reporting form. The narrative should be written the incident report.









Headline News

Seven years after a federal court jury determined that two officers used excessive force during a traffic stop the Ninth Circuit Court of Appeals agreed with the jury.

The female driver, who suffers from a mental illness, accused two officers of injuring her malformed arm by leaving her in handcuffs as they searched her car.

The driver was arrested for failure to present the officers with her driver's license.

No.











The U.S. Supreme Court ruled that an officer may only seize a suspect (using deadly force) when the officer reasonably believes the suspect poses a threat of serious physical harm to the officer or others.

Deadly Force Requirements Of Tennessee v. Garner

Serious physical harm occurs when:

- There is an immediate danger to the officer or others.
- When the suspect demonstrates dangerousness by previous use or threatened use of force.



Deadly Force Requirements Of Tennessee v. Garner

- In the absence of an immediate threat an officer may use deadly force to prevent an escape:
- When the officer reasonably believes that the suspect has committed a crime involving the use or threatened use of serious physical harm.





- The reasonableness of the use of deadly force is to be evaluated on a case by case basis.
- If no case law exists preventing the officer from using
- deadly force, the officer is entitled to Qualified Immunity.







Plakas v. Drinski

Seventh Circuit Court of Appeals

Identified several key points regarding the use of deadly force:

- Police officers are not required to be trained in the use of equipment "beyond the acceptable training standard already mandated,"
- Police officers are not required to retreat or "just walk away."
- Officers are not required to maintain a specific distance or barrier.

Scott v. Heinrich Ninth Circuit Court of Appeals

Ruled the constitution does not require officers to exhaust alternatives before using deadly force

- Police officers are not required to develop a tactical plan before contacting a dangerous suspect.
- Police officers are not required to seal off escape routes, call for back-up, and negotiate before contacting a dangerous suspect.
- If deadly force is reasonable, officers are not required to use less intrusive alternatives.

Moral Component of Using Deadly Force

- The intentional taking of another person's life should not just be viewed only through the prism of jurisprudence.
- An officer should not only act lawfully, but the officer should act according to his or her own conscience and values.
- A use of force incident that involves the use of lawful and moral force is less likely to result in civil rights litigation: "Righteous Shooting."



Non-Deadly Force Requirements Of

Graham v. Conner

(Police and Corrections)

 Determined the legal standard used in nondeadly force litigation. It also established the "Objective Reasonableness Standard."



Non-Deadly Force Requirements Of Graham v. Conner

The Objective Reasonableness Standard consists of two parts:

- Liability decisions are to be made only from the objective facts as they are known at the time from the perspective of a reasonable officer at the scene.
- An officer must consider the reasonableness of the seizure. This is accomplished by weighting the government's interest (to protect the public) against the suspect's interest (to stay free from harm).



Non-Deadly Force Requirements Of Graham v. Conner

While the Supreme Court stated that "Reasonableness" is incapable of precise definition or mechanical application, it did identify four specific factors or circumstances to be considered when determining liability: Whether the suspect poses an immediate threat to the officer or others.

- The severity of the crime.
- Whether the suspect is actively resisting arrest.
- Whether the suspect is trying to escape.

Graham v. Conner

"The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgements (in circumstances that are tense, uncertain, and rapidly evolving) about the amount of force that is necessary in a particular situation."

U.S. Supreme Court (1989)



Bryan v. McPherson

ECD findings, limitations and requirements

The use of the Taser is non-lethal force:

- The ruling applies to all controlled electrical stun devices that cause similar physiological effects.
- Non-lethal force is not a monolithic category of force.
- Serious physical injuries are relevant in evaluating the lawfulness in the use of the Taser.
- The Taser is capable of being employed in a manner that causes death.

Bryan v. McPherson

ECD findings, limitations and requirements

- Because of the high level of pain and the foreseeable risk of injury the Taser is a higher level of force than other non-lethal methods.
- Because the Taser's pain is far more intense, not localized, not gradual, or not within the victim's control, it is greater level of force than pepper spray or mechanical pain compliance.
- The Taser is classified as an "Intermediate Level" of force.

Bryan v. McPherson

ECD findings, limitations and requirements

- An unarmed, stationary, suspect facing away from the officer at a distance of twenty feet is not an "Immediate Threat."
- The Taser cannot be used on drivers who only have committed a traffic violation.
- The Taser cannot be used to control non-violent misdemeanors or the non-dangerous mentally ill.
- The Taser cannot be used for "passive resistance" or "minor resistance."

Bryan v. McPherson

ECD findings, limitations and requirements

An officer must issue a verbal warning to comply or the Taser will be deployed, when reasonable to do so.
Officers are required to consider what other tactics are available. if any, to resolve the situation before deploying the Taser.



Brooks v. City of Seattle ECD findings, limitations and requirements

- Because the "Drive Stun" mode involves touching the body (not firing darts) and causes only temporary, localized pain (not neuro-muscular incapacitation), the Drive Stun is less force than a probe deployment,
- The Drive Stun is equivalent to pain compliance techniques that cause bruises, pinched nerves, and broken wrists.
- Drive Stun burn marks and scars are far less serious than a dart penetrating the flesh, incapacitating muscle contractions, and injuries for an impact with objects from a Taser induced free fall.

Brooks v. City of Seattle

ECD findings, limitations and requirements

The factors that the Court considered in finding the force was not excessive:

- The officers followed their department's use of force training.
- · Pepper spray's effects last up to 45 minutes.
- The officer warned Brooks several times and displayed a Taser arc before drive stunning her.
- The officers applied a lesser use of force (control hold) before escalating to the drive stun.
- The officers discussed where best to drive stun Brooks because she was pregnant.

Ninth Circuit Court of Appeals Re-examination of Brooks

"In sum. Brooks' alleged offenses were minor. She did not pose an immediate threat to the safety of the officers or others. She actively resisted arrest insofar as she refused to get out of her car when instructed to do so and stiffened her body and clutched her steering wheel to frustrate the officers' efforts to remove her from her car. Brooks did not evade arrest by flight, and no other exigent circumstances existed at the time. She was seven months pregnant, which the officers knew, and they tased her three times within less than one minute, inflicting extreme pain on Brooks,

[10] A reasonable fact-finder could conclude, taking the evidence in the light most favorable to Brocks, that the officers' use of force was unreasonable and therefore constitutionally excessive."







- McFadden, believing they were "casing a job

 a stick up," followed the two men to the front
 of a store two blocks from the cased store.
- He patted down the outside of Terry's and Chilton's clothing and found pistols in their coat pockets.
- He did not go under Terry's and Chilton's outer clothing until after he felt the guns.







4



clothing for weapons prior to handoutling a person
 for "officer safety" to illustrate the concern you
 have for your personal safety.

Question:	Did you do a search of Mr. Berry?
Answer:	I did a frisk to make sure he didn't have any weapons.
Question:	What were the exigent circumstances that justified the frisk?
Answer:	A frisk that I am allowed to do for my safety to make sure they don't have any weapons:
Question:	What were the circumstances that made you believe that was possible.
Answer:	He was wearing clothing, and the clothing had pockets, I believe, and people keep weapons in their pockets. And, also, he had a waistband on his pants, and people tuck weapons and things of that nature in their pants and shoes.
Question:	I think we all have waistbands on our clothing. Does that mean that you have exigent circumstances to pat us down?
Answer:	Yeah, Any time I contact people at work as a police officer 1 frisk them just for my safety. I am allowed to do that with or without their consent.



Two Corrections Deputies fired after inmate injured at Webster center

Headline News

Two Richmond County jailors were fired last month after a fight with an inmate in his cell

The deputies were let go from the sheriff's office after an altercation with 18-year-old inmate, who refused to exit his cell.

The sheriff drew a distinction between "unnecessary" and "excessive" force.



Excessive Force' Video Sparks Federal Lawsuit

Headline Nows

Video showing a County Sheriff's deputy slamming a suspect's head into a wali has triggered a federal lawsuit, the sheriff admits the incident shows excessive force.





 County deputy fired for excessive force

 County Sheriff fired a deputy who was seen on a video beating a teenage girl in a holding cell

 Headline News

 The deputy faces an assault charge in connection with the inciden.t

 Video of the incident shows the 15-year-old, who had been arrested for investigation of auto theft, kicking off her shoe at the deputy. He responds by knocking her into a wall and the floor and striking her.



Charges filed in incident at jail

Former deputy charged in jail incident

Headline News

A former deputy sheriff has been charged with assault and battery in connection with an "excessive force" incident at the County jail.

After an internal affairs investigation, the Sheriff called for a criminal probe into the matter, which resulted in the assault and battery charges.





4th Amendment for Pre-trial Detainees (Objective Reasonableness Standard)

8th Amendment for Convicted Inmates (Right to be free of Cruel and Unusual Punishment)



ry charges.

8th Amendment U.S. Supreme Court Ruling Whitney v. Albers

- The cell block was taken over and an officer taken hostage at Oregon State Penitentiary.
- Inmates threatened to kill the officer if an entry into the block was attempted.
- An Inmate was shot in the leg with a shotgun as he climbed the stairs to enter the cell that was holding the officer.

Whitney v. Albers

- Force does not violate the 8th Amendment unless it is applied "maliciously and sadistically."
- The 8th Amendment forbids the "unnecessary and wanton infliction of pain."



Whitney v. Albers

- You must balance the need to maintain or restore discipline through force against the risk of injury to the inmate.
- Force must be used in good faith to maintain or restore discipline.
- Force applied maliciously and sadistically always violates the contemporary standards of decency.







8th Amendment: The Death Penalty



• Excessive force must be objectively unreasonable.



General Corrections' Use of Force Guidelines



- · Prevent an escape or protect property.
- Maintain order and discipline in the facility.
- Protect the officer or others from an assault
- Prevent suicide or self-inflicted serious physical injury.



General Corrections' Use of Force Guidelines

Deadly Force

- Prevent an escape from the correctional facility
- Protect the officer or others from the use of deadly force







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In addition to being sued for a Fourth Amendment excessive force violation, an officer can be sued under ADA for not accommodating a suspect's disability during the arrest			

ADA

"Americans with Disabilities Act"

The Act requires:

• Law enforcement and corrections officers to make a "reasonable accommodation" for the person's physical disability while detaining, arresting, incarcerating the suspect/inmate.



ADA

"Americans with Disabilities Act"

- It must be reasonable under the circumstances to make the accommodation.
- · It is unreasonable to make an accommodation if:
 - The accommodation threatens the safety of the officer or others.
 - The suspect is physically resisting arrest.
- It is the officer's responsibility to justify why an accommodation was unreasonable.

City and County Violate ADA

Headline News

A deaf man was arrested and transported to the County Jail, Jail officials failed to give Pierce a Sign Language interpreter or otherwise inform him "of his rights as a person with a disability."

A City 911 dispatcher failed to tell the police officers that the domestic violence suspect was deaf.

The County was ordered to pay \$100,000 in punitive damages. The City was ordered to pay <u>\$50,000.</u>



ADA

"Americans with Disabilities Act"

 The preexisting conditions or injuries that are alleged in police lawsuits;

- Forearm and wrist injuries
- Back and neck injuries
- Shoulder injuries
- Elbow injuries
- Blindness
- Deafness
- addiction





- If the suspect or another informs you of a preexisting condition/injury, check the person for scars, limited mobility, impairment and/or medication.
- If the suspect states he or she has a physical limitation or problem, modify the handcuff procedure if reasonable;



- ADA "Americans with Disabilities Act"
 • Proactive Prevention of ADA Lawsuits
 • When "Cooperative Handcuffing" a suspect.
 - ask about shoulder, arm, and wrist injuries. • If the suspect has a physical limitation or
 - injury, make a reasonable modification to the handcuffing procedure.





Threat Assessment

Intent - the Threat must demonstrate his/her intent to inflict physical injury or resist being controlled through body language and/or verbalization

Means - The Threat must have the physical capabilities to carry out the articulated aggression or resistance

Opportunity - The Threat must have access to the officer and/or object to carry out the articulated or perceived threat





Levels of Resistance

Active - The Threat physically resists your verbal commands and/or attempts to gain physical control by pulling away, attempting to escape, or powering through a control hold.



Levels of Resistance

Ominous - The Threat demonstrates the willingness to engage in combat through verbal challenge and/or aggressive behavior. Or, the Threat attacks (bites, pushes, strikes, etc.) or attempts an attack during a contact or attempt to gain physical control.



Levels of Resistance Level Four Lethal - Is any force under the circumstances in which it is used is readily capable of causing death or serious physical injury.

- The force does not have to be a conventional weapon (gun, knife, etc.)
- It can be through superior strength or by incapacitation.

Four Criteria for the Justification of the Escalation of force Ask yourself these questions....

- Is the action (use of force) worth the risk of injury to myself or the Threat?
- Is this the least amount of force necessary to accomplish my goal (Threat Control)?
- Does the Threat have the Opportunity to comply with my commands?
- Is the current course of action accomplishing the desired result?





Levels of Force

Force Continuum

An officer must move up and down the continuum based on the Threat's actions, Officer verses Threat Factors, Influential Circumstances, and the Totality of the Circumstances.

Force

Levels of Force

Purpose of a Force Continuum

- Train new officers to use reasonable force.
- Train veteran officers to make proper use of force decisions.
- Help citizens to understand police use of force.
- Assist jurors in understanding police use of force.



	ACCT] Relative Force Contignum			
Relative Force	Lood of Films	Method of Foreg	kasst of Recolution	Donit
Continuum	VE Deally	44 	Lathal	R
This Force Continuum Model has been used successfully over three	Sarmas V Physical Control		Ominous	E 5 1 5
nundred times in state and federal courts Jurors have found the	D Plosical Control		Active Static	
officer's use of force easonable 97.7% when	III Physical Contact	100	No. 100.001	
he officer's force was within this force model	H year	5	Vertral :	
within this force model	1 Postace		Nume	

Force Continuum Level One - PRESENCE

An officer has an expectation that inappropriate behavior will stop at the officer's arrival. The following is an escalation of an officer's presence:

Display of Authority Badge, Uniform, Police ID, and/or Marked Patrol Vehicle

__Officer's Body Language/Demeanor Bladed body, Extended Eye Contact, and/or Hand Gestures

Display of a Force Option Presentation of Multiple Officers, OC, Taser, Baton, K-9, or Firearm

Force Continuum

Level Two - VERBALIZATION

Persuasion: The use of Tactical Communication skills to gain compliance

Questioning: Officers have the statutory authority to detain suspects for investigative reasons (Terry v. Ohio)

Direct Orders: Are clear and concise verbal commands, void of terms endearment. Verbal Commands must be:

- · Simple No more than three directives at a time
- Given by One Officer Eliminates contradictions
- · Void of Profanity Terms of Endearment



Plaintiff contends that the police officer defendants threatened to unleash the dog to attack him if he did not "shut up." The officers deny this, but at this stage of the case the court must apply its legal analysis to the plaintiff's version of the event. In oral argument, counsel for the defendant officers took the position that the threat of force should not be deemed unreasonable so long as the force was not used and a reasonable officer could conclude that such a threat would be useful in gaining control of the situation. When asked if the officers could have threatened to shoot plaintiff if he did not stop talking, counsel replied that such a threat was not actionable under § 1983 so long as it was not carried out. The Court disagrees with this proposition as a matter of law.

If the use of excessive force could not be justified, the threat to use such force, coupled with the apparent incodiate ability to use it, cald seen to fit the classic definition of an assault.

Force Continuum Level Three - PHYSICAL CONTACT

Directional Contact - by invading personal space and/or gently touching the arm or shoulder, you can control and change the location of a person without the person feeling threatened or manipulated

Escort Hold - places you in a position of advantage, places the Threat in a position of disadvantage, and is unoffensive to the Threat and the public

Force Continuum Level Four - PHYSICAL CONTROL The physical control category is the low intensity, mechanical application of direct physical pressure to gain compliance through graduated pain (excluding

OC aerosol restraints and Taser Drive Stun)

•Mechanical Restraints •Pressure Points Joint Manipulation

 Pepper Spray Drive Stun Take-downs

Force Continuum Level Four - PHYSICAL CONTROL **Mechanical Restraints** The use of mechanical restraints are the lowest level of physical control. Mechanical restraints have a very high potential for control and a low potential for injury (when properly applied) • Handcuffs & Leg Irons • Nylon Restraints and Flex-Cuffs • Restraint Chair

Force Continuum Level Four - PHYSICAL CONTROL

Pressure Points

Graduated pressure applied to nerve points for pain compliance. They have a low potential for injury and a low potential for control of a determined person, an intoxicated person, or EDP

Examples:

the neck)

- · Mandibular Angle (below the earlobe)
- Infra Orbital (center of the upper lip)
- Ulna Nerve (back of the upper arm)
- · Hair Control (nerves on the nape of



Force Continuum Level Four - PHYSICAL CONTROL

Joint Manipulation

Anytime pressure is applied to a joint there is a possibility of injury. However, the degree of injury will depend on the physical condition of the Threat and the amount of force applied to the joint.

- Wrist-locks and Twists (comealong).
- Elbow and Shoulder-locks (comealong)
- Finger-locks (Digital Control) are a higher level of force due to the increased risk of injury

Force Continuum Level Four - PHYSICAL CONTROL Oleoresin Capsicum (OC) OC is placed above the use of pain compliance

comealongs because you cannot graduate the application of an OC aerosol restraint; therefore, you can not graduate its painful effects.

There have been several in-custody deaths after suspects were sprayed with an OC spray. Also, there have been skin chemical burns and eye injuries from OC exposures,

Pepper Spray should not be used for crowd control.

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City to pay \$775,000 settlement to family of man who died after being pepper sprayed by police Headline News Police officers used pepper spray to subdue him. He

complained of having trouble breathing and died in the Police Department parking lot while being taken to the County Jail





control mechanism. Consequently, the Drive Stun does not cause neuro-muscular incapacitation.

- Target areas: abdomen, limbs, lower back, shoulders
- Do not apply Drive stuns to the head, neck, or heart area

Taser Drive Stun causes burn marks of the skin

Force Continuum Level Four - PHYSICAL CONTROL

Electronic Stun Devices

Stun Belt, Bracelet, Gun, and Shield Stun devices produce between 50 and 90 thousand volts of electricity and use extreme localized pain for compliance.













- A dart hitting the eye.
- Head or face trauma from an impact with a hard surface from the free fall after being incapacitated.



Taser Internal Record

- Synchronize the Taser's internal record program with the department's download-computer's date and time.
- If Tasers are assigned by shift and not to specific officers, each officer should document the Taser carried at the start of each shift.
- Each time the Taser is activated the activation should be documented.



Taser Internal Record

Documenting every Taser activation, deployment, and application:

- Assists in defending the Taser usage in a lawsuit.
- Distinguishes between a test activation and a shock deployment.
- Provides a defense against an allegation of misuse.
- Discourages questionable Taser usage or improper application.

Taser Internal Record

- · Establish a Taser Download Schedule.
- · Maintain a file for each Taser's activation log.
- Create policies governing the reporting of Taser activation and provide training in these policies.
- Frequently, check the officers' adherence to the Taser activation reporting policy.



Taser Evidence Collection

- Photograph the areas where the electrodes or probes contacted the body - whether there are or aren't visible marks.
- Photograph the spent cartridges, blast doors, or AFID tags in the location where they were found.
- Photograph the probe wires in the condition and location where they were found.
- Do not coil the wires around the cartridge fold the wires into six to eight inch lengths.





Taser Forensic Evidence

- Probe darts are not uniform a dart detached from its wire can be matched to its cartridge.
- Documenting the location of the spent cartridge, wires, AFID tags, blast doors, and free probes, allows a forensic expert to determine the distance that the Taser was deployed from the officer.
- Straightened wires indicate a deployment at the maximum effective range, the dart missed its target, or the suspect continued to run away.
- Wavy wires indicate a close to mid-range deployment.

Taser Reporting Guidelines

- Every time a suspect/inmate is shocked, threatened with, intimidate by, or touched with the Taser a report should be written.
- The report should state:
 - Whether the officer used the darts, Drive Stun, probe touch, or laser dot and why the officer choose that method.
 - The location(s) of the darts on the body or area(s) Drive Stunned.



Taser Reporting Guidelines

- How many times the person was shocked and Why?
- What other levels or types of force were used prior to the Taser.
- The composition of the surface the person hit after the Free Fall and objects impacted.
- If medical was called? The names of the EMTs.



Citizen Police Review Board to Discuss November TASERing Headline News The incident took place when two officers used the TASER on a man twice at the downtown Subway. Emergency workers took the man to University Hospital Police did not arrest the man. A month later, on December 16, eight witnesses filed the complaint against the officers.



Police officer fired over Taser Incident

Headline News

The officer was fired for conduct unbecoming of an officer, excessive use of force and violations of general rules and procedures.

The officer admits making mistakes that night, such as not reporting that he turned on his Taser. But he firmly denies using a Taser on the victim, but no photos were taken.

Two people said they saw drive-stun marks on the victim following the incident.

Force Continuum Level Five - SERIOUS PHYSICAL CONTROL

Focused Blows

Level One - Low intensity techniques that distract the Threat: Open-hand slap, cross-face, shin rake, etc.

Level Two - Strikes that cause a limb dysfunction: Strikes to the major nerves





Force Continuum Level Five - SERIOUS PHYSICAL CONTROL **FOCUSED BLOWS** Level Three - Strikes that stun the Threat: Strikes to the torso and Brachial Plexus Level Four - Strikes that cause an immediate incapacitation Strikes to the eyes, ears, temple, chin/jaws, base of the skull, spine, and groin

Force Continuum Level Five - SERIOUS PHYSICAL CONTROL Focused Blows

It is always preferred to implement an aerosol restraint, Taser, or impact weapon over the use of Level Four Focused Blows. However, if these weapons are not in the officer's hand at the time of the attack, do not attempt to retrieve it off your belt. An officer cannot effectively implement these weapons while under physical attack. Apply focused blows to stun the Threat Force Continuum Level Five - SERIOUS PHYSICAL CONTROL

> Impact Weapons Batons and Weapons of Necessity

Impact weapons are a higher level of force than empty hand strikes because they will cause more injury than a focused blow to the same target.



Force Continuum

Level Five - SERIOUS PHYSICAL CONTROL

Police K-9 as a weapon (bite)

The police K-9 (when used as a weapon) is placed above the use of an impact weapon for the following reasons:

 The high risk of serious physical injury through soft tissue damage and infection.

 The K-9 takes the target of opportunity does not discriminate between different parts of the body.



Force Continuum Level Five - SERIOUS PHYSICAL CONTROL

Police K-9

• Temperaments vary with each K-9, marking them as a group unpredictable.

 The K-9 cannot distinguish a suspect from a police office or civilian.

Police set dog on the wrong man, who is now suing for \$1.3 million

Headline News

- The federal lawsuit contends the officers used excessive force by letting a police dog loose on the man.
- As it turned out, the man the officers stopped wasn't the fugitive they were looking for.
- The dog bit the side of the man's body and then bit his knee multiple times until his knee joint was torn open.

Excessive force: police dog bit wrong man Headline News

Police Chief says excessive force was used in a case in which a police officer let his dog go after a man who turned out to be a homeowner, not a prowler,

Moments before police arrived at his home. The victim had been fighting with the intruder who crawled through an open window. Then the victim found himself bitten three times by a police dog while the intruder escaped.



Negligence

Police K9

runs past the

suspects and

bites the

victim

Which police department is liable for robbery victim's dog bite? City of Huntington Beach v. City of Westminster. 66 Cal_Rptr.20 826 (California) 1997

The neighboring cities of Huntington Beach and Westminster, Calif, had an "informal mutual assistance pact" under which each city received the other's

pact under winch dath city receiver the only of dispatches and occasionally responded. Both cities of Both cities police responded to a report of a robbery at a Huntington Beach restaurant. Officers decided they needed a canne unit to determine whether armed needed a canne unit to determine whether armed suspects were hidring in a trash bin area. Dehind the restaurant, Because the Hunnington Beach dog handler was off duty, Westimister police offered the ionities of their handler, who was at the scene with a nog-Both citues' officers believed the trash area was enclosed and that the dog couldn't leave the area, so the handler released the dog from its leash. The dog left the trash area, are now to be beenfortfolder suspects and bu con-

trash area, ran past two handculled suspects, and hit one

Irash area, ran past two nanuculieu suspects, into income of the robbery victims The robbery victim such both clines. Without admitting hability, the cities settled with the victim for \$250,000 They then such each other, each asking the court to order the robber on the full around the other city to pay the full amount

It is articles like this that give jurors the impression that "less lethal" weapons are "nonlethal"



Force Continuum Level Five - SERIOUS PHYSICAL CONTROL

Less-Lethal Technology

Bean Bag Projectiles, Pepper Ball, Rubber Bullets, Flash/Stun Grenades have the potential to cause serious physical injury or death - depending on the shot placement and/or distance from the Threat.

However, they are excellent force options in lieu of deadly force or placing yourself in a position where you may be forced to use deadly force - had they not been used.

Man to get \$230,000 in settlement **Headline News**

A man who was hit in the eye with a police pepper ball during a block party that turned into a riot will receive \$230,000 from the city.

The suit claims that he lost depth perception and peripheral vision in his right eye and continues to suffer from double vision.



Baseball

Makers of

pepper ball

guns

recommend

shooting into the crowd for

crowd-control

Posted 10/21/2004 4 39 PM Updated 10/21/2004 8 21 PM Woman dies from head injury

sustained after Red Sox win

BOSTON (AP) - A 21-year-old college student died Thursday of a head injury after a clash between police and a crowd of Red Sox fans who poured into the streets outside Fenway Park to celebrate their team's victory over the New York Yankees.

Victoria Snelgrove, a journalism major at Emerson College in Boston, was shot in the eye by a projectile fired by an officer on crowd-control duty. The nature of the projectile was not immediately identified but the weapons are meant to be non-lethal.

Police shoot 12-year-old girl in leg

Headline News

Police are under fire for shooting a 12-year old girl in the leg with a bean-bag projectile.

The incident was caught on video tape. It shows the officer walking around the girl after his colleague had pinned her to the ground. She continued to struggle. One shot was fired and it struck her in the thigh.


City police officer resigns, may have used excessive force

Headline News

A police officer who reportedly used a Pepper-Ball gun on an shackled man in January has resigned. The Herald reports the officer used the device, which is similar to a paintball gun, on a drunk man. That man was handcuffed and shackled in a holding cell at the time. Police officials say the inmate was swearing at officers, spitting and acting up before the officer deployed the device.

Police shoot man after 'bean bag' projectiles fail

By PETER FARRELL

The use of

bean bags

before

shooting the

suspect

demonstrates

to the jury the

officers

exhausted all

options before killing him

Portinal policy officers shot and wounded a Northwest Portland main after he continuent to charge them despite being shol if our times with "boar toys." I blaiv identified the wounded mura as budgetin Alem Shamer, 21, O the 35th black of Northwast Mar-shall Street. The was listed in serious shall Street. The was listed in serious conditions Sturies in the second street Knamed Hospital.

Rennuel Hospital. The shooting occurred after effi-ceds answered a report absolf 3 cm Similar of a violent person smash-ing windows at the apartment build that where stanner resided. When ing windows if the ann prumuel from a purch several het off the ground fait charged toward them, officers and

One of the officiers shot at the man our times with a shotgun loaden official bean bags," rylon bear

filled with head shot that hit will the force of a baseball line drive. It lice began using the projectiles an accompanying yellow shotguns two years ago to knock down unspect without killing them.

without killing them. It was not clear how many of the holts, sirced, the man. When in reached the officer with the shot gut, police said, another officer first one shot from his semianto matte handgous, striking the man in the upper holy, according to Officer Benry Crevepper, a Portland Police Burrenu spokesman.

The officers by our an policy will not be publicly dominational today Greepper said

The shaoting is under meeting tool by the stream's homicite detec-tives and the East County Mare Crittle Team, and is being overseer too the discret attarney's office Groupper and





Deorle v. Rutherford 9th Circuit Court of Appeals 2001

- Limitations on using Less-lethal Impact Munitions:
- Before using an extended range impact weapon (bean bag), the officer must give a verbal warning, if reasonable.
- An extended range impact weapon is more force than pepper spray, police nunchakus, wrist and arm-locks, pressure points, and police dog bites.

Deorle v. Rutherford 9th Circuit Court of Appeals 2001

The appellate court stated:

"In sum, the crime being committed, if any, was minor and the danger to Rutherford and others appears to have been minimal, as was the risk of flight. Shooting a person who is making a disturbance and walks in the direction of an officer at a steady gait with a can or bottle in his hand is clearly not objectively reasonable."

Deorle v. Rutherford 9th Circuit Court of Appeals 2001

"The force applied through the use of the cloth-cased shot can kill a person if it strikes his head or the left side of his chest at a range of under fifty feet. Such force is much greater than that applied through the use of pepper spray, or a painful compliance hold "Orcutt Police Nonchakus" -- or using wrist-and armtwisting and pressure point holds), and more likely to cause a life-threatening injury than most dog bites."

Questions Raised of Police Restraint Techniques

Headline News

The coroner has not yet determined the cause of death for two men who died while in police custody.

However, with two back-to-back cases of men dying in police custody, one of them subdued using the neck restraint, new questions are being raised regarding the officers training and the safety of the neck restraint.



Force Continuum Level Five - SERIOUS PHYSICAL CONTROL

Carotid/Vascular Neck Restraint

- The vascular neck restraint has been commonly referred to as the "Carotid Restraint" or the "Sleeper Hold." However, research has shown that:
- Pressure to the sides of the neck restricts the blood flow through the arteries and veins.
- The pressure restricts the blood flow through the veins that carry blood away from the brain preventing oxygenated blood from entering the brain and unconsciousness.

Force Continuum Level Five - SERIOUS PHYSICAL CONTROL

Vascular Neck Restraint Post-Restraint Care

- Check the eyes for equal dilation of the pupils.
- Check for respiration and a pulse.
- Place the Threat in a seated position to accelerate recovery.
- Monitor until evaluated by medical personnel.
 Inform Correctional Staff of the application.

Force Continuum Level Six - DEADLY FORCE

General Definition

Deadly force is any force under the circumstances in which it is used is readily capable of causing death or serious physical injury.

Police

Principles of Force Justification

- If the level of force is justified, the implement or delivery system used is of no significance.
- If the level of force is justified, the degree of injury the Threat may sustain is determined by the level and intensity of the resistance offered.



Principles of Force Justification

• The Threat always dictates the degree of force to be used; therefore, the Threat is responsible for any injury that may incur while resisting.

• It is incumbent on the officer to overcome the Threat's resistance as quickly as possible to minimize the possibility (or the degree) of injury to the Threat and/or the officer.



Use of Force

Supporting Documentation:

Institute of Police Technology and Management Police Internal Affairs

Purpose:

Instruction for Internal Affairs Investigators

Institute of Police Technology and Management University of North Florida						
Course Title: Police Internal Affairs						
	CONDUCTED AT: JACKSONVILLE, FLORIDA DATE: MARCH 11-15, 2013					
	Monday			THURSDAY	FRIDAY	
A.M.	Monday March 11	TUESDAY MARCH 12	WEDNESDAY MARCH 13	March 14	MARCH 15	
8:00	REGISTRATION	INTERNAL	ADMINISTRATIVE	SPECIAL INVESTIGATIONS:	REVIEW	
	and Orientation	Affairs	Law	INVESTIGATIONS.	Pretest	
8:50		POLICY,		Sexual		
9:00	Pretest	Procedure		HARASSMENT	INVESTIGATION	
		AND RULES			OF OFFICER	
9:50		AND ROLES			INVOLVED	
10:00	ETHICS AND	COMPLAINT		LA.	Shootings	
	INTEGRITY	Processing		Records		
10:50		AND			_	
11:00		MISCONDUCT				
11:50						
P.M.	≅ ≅	≅ ≅ ≅	≅ LUNCH ≅	: ≃ ≈ ≈	≅ ≅	
1:00	INVESTIGATION	Preparing	- CONTINUED -	CLASS	PROJECT	
	OF	FOR AND		PROJECT	Presentations	
1:50	Personnel	CONDUCTING				
2:00	COMPLAINTS	Administrative				
2.50		INTERVIEWS				
2:50					127	
3:00						
3:50			i iii			
4:00					FINAL EXAM, COURSE	
5:00					EVALUATION AND CLOSING	
5.00						

JOHN BLUME

Adjunct Faculty INSTITUTE OF POLICE TECHNOLOGY AND MANAGEMENT University of North Florida 12000 Alumni Drive Jacksonville, Florida 32224 (904) 620-IPTM

Mr. John Blume came to the Institute of Police Technology and Management in 1982. He retired from the Institute in January 2002 and now serves as an adjunct faculty member. Mr. Blume coordinated the Institute's management programs and was responsible for supervising instructors assigned to the Management Section as well as the development and presentation of training programs in personnel administration, supervision, management, executive development, traffic management and internal affairs.

Mr. Blume's police career was 20 years with the Ohio State Highway Patrol. He served as a trooper, assistant post commander, a member of the Planning and Research Section, a member of the Bureau of Personnel, Commander of the Ethics and Standards Section and Administrative Assistant to the Superintendent. The last six years of his career were served in General Headquarters where he was involved in short and long range planning, administering federal grants, personnel counseling, administering the department's performance evaluation system, administering the complaint processing system and carrying out duties of a General Staff Officer.

Mr. Blume graduated from Ohio Dominican College in Columbus, Ohio, with a B.A. degree in Criminal Justice Administration and from Central Michigan University, Mount Pleasant, Michigan, with a M.A. degree in Management and Supervision. He also graduated from the Northwestern University Traffic Institute's 9-month Police Administration Course in Evanston, Illinois.

JOSEPH S. KOZIOL, JR.

Adjunct Faculty INSTITUTE OF POLICE TECHNOLOGY AND MANAGEMENT University of North Florida 12000 Alumni Drive Jacksonville, Florida 32224 (904) 620-IPTM

Mr. Joseph S. Koziol joined the IPTM staff in 1993 where he instructs a variety of management and specialty courses. He retired from the Institute in 1999 and now serves as an adjunct faculty member. He was formerly a management and police consultant serving as National Project Director for the Serious Habitual Offender Comprehensive Action Program under a U.S. Department of Justice Grant.

Mr. Koziol began his career with the Binghamton, New York Police Department in 1960. When he left in 1967, he was the traffic commander. He was employed by the Traffic Institute at Northwestern University for five years and served in such capacities as Management Consultant, Chairman of the Training Option and Supervisor of Police Unit Course Branch.

In 1972, he accepted a position as Chief, Village of Bartlett, Illinois Police. In 1974, he became Chief of Police for the Village of Carol Stream, Illinois and in 1981 he accepted an offer to become head of the Mentor Ohio Police Department and continued in that position until 1984. Mr. Koziol served as Chief of Police for the Portsmouth Virginia Police Department from November 1, 1984 until December 1989.

Mr. Koziol received a Masters Degree in Public Administration from Illinois Institute of Technology and is a graduate of Northwestern University's nine-month course. He is a member of many professional organizations and has been published in the Police Chief Magazine.

DAN LIBBY

Adjunct Faculty INSTITUTE OF POLICE TECHNOLOGY AND MANAGEMENT University of North Florida 12000 Alumni Drive Jacksonville, Florida 32224 (904) 620-IPTM

Major Wildred Daniel (Dan) Libby is a 29-year veteran of law enforcement. He is currently the Bureau of Administration Commander for the Charlotte Sheriff's Office (a mid size agency with 514 employees). A position he assumed after serving seven years as the Chief of Police for the City of Punta Gorda, Florida. Prior to his Florida law enforcement experience, he was the Chief of Police in Plymouth, New Hampshire (nine years) and a road patrol police officer/sergeant in Bedford, Massachusetts (11 years). He has been certified in three states as a police officer.

Major Libby holds a Bachelor of Arts Degree from the University of Massachusetts in American History and a Juris Doctor Degree in Law from New England School of Law in Boston, Massachusetts. He is admitted to the practice of law in the Commonwealth of Massachusetts and the Federal District Court of Massachusetts. He is a graduate of the Command Officer Training Program at Babson College in Wellesley, Massachusetts and the 202nd session of the FBI National Academy in Quantico, Virginia.

Major Libby has been an instructor in legal issues for the Massachusetts Criminal Justice Training Council, Northeast Regional Police Institute and the New Hampshire Criminal Justice Training Council. He is an adjunct professor of Criminal Justice at Edison Community College in Punta Gorda, Florida and formally at The New Hampshire Technical Institute of Concord, New Hampshire. He was an adjunct instructor in the paralegal program the Plymouth State College in Plymouth, New Hampshire.

Major Libby has been involved in numerous lawsuits involving the agencies he led for sixteen years. He has also instructed over 12,000 police officers and criminal justice students in legal and criminal justice issues since 1982.

Use of Force

Supporting Documentation:

Southern Police Institute Trends and Techniques in Internal Affairs

Purpose:

Instruction for Internal Affairs Investigators



SOUTHERN POLICE INSTITUTE Department of Justice Administration College of Arts and Sciences University of Louisville Louisville, Kentucky 40292 502-852-6561/Fax-502-852-0335

www.louisville.edu/spi

Your Personnel Are Your Legacy...

Trends and Techniques in Internal Affairs

#123K12 Fairfield Inn and Suites Louisville, KY April 8-12, 2013

Curriculum

Monday, April 8, 2013

8:00 AM	COORDINATOR
	Registration, Orientation and Introductions
8:30 AM	TANDETA HETTICH
	Value-Based Leadership & Role of Internal Affairs
	Basic Investigative Steps & Documentation of Investigations
NOON	LUNCH
1:00 PM	TANDETA HETTICH
	Overview of Criminal vs. Administrative Investigations
5:00 PM	End of Instructional Day

Tuesday, April 9, 2013

8:00 AM	TANDETA HETTICH
	Implied Garrity and its Impact on a Criminal Investigation
	Due Process Rights - Investigative & Disciplinary Phases
	Introduction to Discrimination & Sexual Harassment Investigations
NOON	LUNCH
1:00 PM	TANDETA HETTICH
	Discrimination & Sexual Harassment Investigations (cont'd)
5:00 PM	End of Instructional Day

Wednesday, April 10, 2013

STEVE ROTHLEIN
Welcome and Introduction
History of Misconduct
Ethics/Values in Law Enforcement
Corruption
LUNCH
STEVE ROTHLEIN
DOJ Pattern and Practice Investigation
Liabilities of Police Supervisors
End of Instructional Day

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Thursday, April 11, 2013

8:00 AM	STEVE ROTHLEIN
	Complaint Acceptance
	Complaint Investigation
NOON	LUNCH
1:00 PM	STEVE ROTHLEIN
	Officer Involved Shootings
	Domestic Violence Investigations
	Staff Inspections
	Informants
	Sting Operations
	Policy Development (Group Exercise)
5:00 PM	End of Instructional Day

Friday, April 12, 2013

8:00 AM	STEVE ROTHLEIN
	Civilian Oversight/Mediation
	Gypsy Cops
	Sexual Misconduct
NOON	LUNCH
1:00 PM	STEVE ROTHLEIN
	Early Intervention Systems
	Supervision
4:00 PM	Exam Review
	COORDINATOR
	Examination
	Evaluations
	Presentation of Certificates
5:00 PM	END OF COURSE

TRENDS & TECHNIQUES IN INTERNAL AFFAIRS INSTRUCTORS:

TANDETA HETTICH

Major Commander Special Investigation Division Louisville Metro Police Department Louisville, Kentucky

STEVE ROTHLEIN

Deputy Director, Miami-Dade Police Department (Retired) Hollywood, Florida

COORDINATOR

Cynthia Shain Associate Director, SPI

Use of Force

Supporting Documentation:

Labor Relations Information Center Internal Affairs and Critical Incidents

Purpose:

Instruction for Internal Affairs Investigators



Your information resource for public sector labor and personnel issues.

Seminar Information

Internal Affairs & Critical Incidents

November 06 to November 08, 2013 Las Vegas, Nevada The Flamingo Las Vegas

Agenda Hotel And Travel Speakers CLE And POST Certification Other Information Register

November 06, 2013

9:00 am + Critical Incidents From Every Angle

An expert panel of four members will examine every element of a critical incident, looking at such incidents from a legal, administrative, disciplinary, psychological, union, and prosecution standpoint. The panel will discuss issues including:

- · Oritical incidents defined, how often they occur, and how less-lethal force should be handled.
- · Managing the scene of the incident. Supervisory responsibilities when a critical incident occurs.
- The legal rights of officers involved in critical incidents, including whether there is any right to representation for witness
 officers.
- · Oritical incidents and an employee's physiological and psychological reaction to a critical incident.
- · Walkthroughs, video reconstructions, evidence preservation and protocols, and other investigatory issues.
- · Dealing with the media,
- · The pros and cons of giving voluntary statements, and the timing of any statement.
- · The factors prosecutors consider in evaluating critical incidents.
- · Internal affairs investigations should they be done concurrently or after the criminal investigation is concluded?
- Inquests and grand juries.
- · Using critical incidents as training tools

12:00 pm • Lunch (Included in registration)

1:00 pm • Critical Incidents From Every Angle,

(continued from morning session)

Panel members are Michael Coviello, police union attorney; Randy Means, attorney, risk management specialist, and author; Shannon Presby, Los Angeles County Prosecutor; Darrell L. Ross, Ph.D., use of force/human factors researcher, use of force instructor, expert witness/consultant, and author.

4:00 pm + Adjournment

4:15 pm • Hosted Hospitality Reception

November 07, 2013

9:00 am • Critical Incidents From Every Angle,

(continued from Wednesday session)

12:00 pm • Lunch (Included in registration)

1:00 pm + The 10 Rules Of Engagement In The IA Process

- A "beginning-to-end" review of internal affairs and disciplinary interviews, including:
- · From the perspective of interviewers, employees, and labor representatives, how to prepare for disciplinary interviews.
- · The right to representation in a disciplinary interview, and what the representative can do during the interview.
- · Whether there is a right of access to relevant documents before the interview.
- The 10 Rules of Engagement in a disciplinary interview how employees can give the best interview possible.
- · Re-interviews when and why?
- The ground rules for disciplinary interviews where, what time of day, how long, how many interviewers, breaks, and other procedural issues.

Michael Stone

4:00 pm + Adjournment

November 08, 2013

8:30 am • Use-Of-Force Investigation And Risk Management

- · Varying standards under agency policy and state law.
- The federal constitutional standard of "objective reasonableness."
- The key components of a use-of-force investigation.
- · Underlying causes of unacceptable force escalations.
- Choosing the right force model and/or continuum.
- Proper balancing of force training cycles.
- Appropriate use-of-force data in early warning systems.

Randy Means

11:30 am + Adjournment

Use of Force

Supporting Documentation:

Spokane Police Department Deadly Force Review Board Policy

Purpose:

Provide a standard for administrative review of deadly force encounters



Deadly Force Review

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Spokane Police Department to review the use of deadly force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

302.2 POLICY

The Spokane Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

302.4 DEADLY FORCE REVIEW BOARD

The Spokane Police Department is charged with the important responsibility of objectively evaluating the use of deadly force. It is the policy of this department to convene a Use of Deadly Force Review Board any time deadly force is used whether injury or death occurs. The Use of Deadly Force Review Board may also review the circumstances surrounding an accidental or intentional discharge of a firearm, whether the employee is on or off duty, excluding range training or recreational use.

The Chief of Police may convene the Use of Deadly Force Review Board to review the circumstances surrounding any use of force incident, including uses of force that do not rise to the level of deadly force.

302.4.1 COMPOSITION OF THE BOARD

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

- Bureau commander serving as the chairperson.
- Command representative of each bureau.
- Training lieutenant.
- Two peer officers selected by the Chief of Police or designee.
- A member of the Public Safety Committee.
- A member of the respective collective bargaining unit.
- Departmental subject matter experts as determined by the Board Chairperson.
- Non-administrative supervisor.

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Deadly Force Review

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

302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Deadly Force Review Board is empowered to conduct an administrative review of an incident and make recommendations in the following areas:

- Tactical considerations
- Training considerations
- Quality of supervision
- Other relevant observations and recommendations
- Equipment considerations

The board does not have the authority to recommend discipline. After the board has concluded, the board chairman will submit written findings of the board to the Chief of Police. After review by the Chief of Police, a copy of the findings will be forwarded to the Bureau Commander for review and appropriate action.

The board chairman will contact the involved officers whose actions were examined by the DFRB and provide them the opportunity to view the information that was presented to the DFRB and review the written findings.

At the conclusion of the review process, a copy of all relevant reports and information will be filed in Internal Affairs.

Use of Force

Supporting Documentation:

Spokane Police Department Officer-Involved Shooting Policy



Officer-Involved Shooting

310.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured as the result of an officer-involved shooting. The intent of this policy is to ensure that such incidents be investigated in a fair and impartial manner.

310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Officer Involved Fatal Incident Protocol for investigating officer-involved shootings.

310.3 TYPES OF INVESTIGATIONS

Officer-involved shootings involve several separate investigations. The investigations may include:

- (a) A criminal investigation of the incident by the agency having jurisdiction where the incident occurred. This department may relinquish its criminal investigation to an outside agency with the approval of the Chief of Police or a Bureau Commander in accordance with the contractually agreed upon Protocol to Investigate Officer-Involved Fatal Incidents in Spokane County.
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency.
- (c) A civil investigation to determine potential liability conducted by the involved officer's agency.
- (d) An administrative investigation conducted by the involved officer's agency to determine if there were any violations of department policy.

310.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

310.4.1 SPOKANE POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Spokane Police Department will adhere to the Officer Involved Fatal Incident Protocol. The criminal investigation will be performed by the Spokane Investigative Regional Response Team (SIRR), and will take priority over the administrative investigation.

310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

If the allied agency is a member of the agreed Officer Involved Fatal Incident Protocol and decides to invoke the protocol, then the Spokane Investigative Regional Response Team will conduct the criminal investigation, including the officer-involved aspect of the incident. In lieu of invoking the protocol, the allied agency may investigate the matter by itself or seek aid from other agencies outside of the protocol's requirements. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

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Officer-Involved Shooting

310.4.3 SPOKANE POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

The Spokane Police Department may elect to have the venue agency conduct the criminal investigation or invoke the Officer Involved Fatal Incident Protocol. The Spokane Police Department will conduct timely civil and/or administrative investigations.

310.5 THE INVESTIGATION PROCESS

The procedure for investigating an officer-involved shooting are contained within the Officer-Involved Fatal Incident Protocol and should be adhered to as guidelines in any case in which an officer is involved in a shooting. The Officer-Involved Fatal Incident Protocol clearly details the actions that should be taken by all participants who have a role in the process of the investigation.

310.5.1 MEDIA RELATIONS

A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the Incident Commander, team leader of the Spokane Investigative Regional Response Team (SIRR), and the Public Information Officer in the event of inquiries from the media.

It will be the policy of this department not to release the identities of involved officers absent their consent or as required by law. Moreover, no involved officer shall be subjected to contact from the media and no involved officer shall make any comments to the press unless authorized by the Chief of Police or a command-level officer. Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation. Any law enforcement official receiving inquiries regarding an incident that is being investigated under the Officer-Involved Fatal Incident Protocol shall not make public comment unless they represent the agency that has primary investigative responsibility.

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

In addition to the duties defined in the Officer-Involved Fatal Incident Protocol, detectives of the Spokane Police Department assigned to the Spokane Investigative Regional Response Team are responsible for providing regular updates to their chain-of-command. These updates should include, but are not limited to: current case status, prompt notification of significant changes effecting the investigation and any information received from the prosecuting attorney. The investigative chain-of-command shall then forward this information to the command staff of the Spokane Police Department.

310.7 OFFICER-INVOLVED FATAL INCIDENTS PROTOCOL

Also see "Officer-Involved Fatal Incidents Protocol"

310.8 AUDIO AND VIDEO RECORDINGS

Any officer involved in an incident may be permitted to review available Mobile Audio Video (MAV) or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also

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Officer-Involved Shooting

be permitted to review available MAV or other video or audio recordings with approval of assigned investigators or a supervisor.

Any MAV and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecutor's office or the City Attorney's Office as appropriate.

Use of Force

Supporting Documentation:

Spokane Investigative Regional Response Team Protocol

Purpose:

Provides protocols for multi-agency investigative responses to officer involved shootings (or other critical incidents as needed)

A PROTOCOL TO INVESTIGATE

OFFICER INVOLVED FATAL INCIDENTS

IN

SPOKANE COUNTY

(Revised 01-02-13)

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STATEMENT OF PURPOSE

The focus of this Protocol is the Investigative process, both Criminal and Administrative. This Protocol is not intended to alter or interfere with any agency's employer-employee relationship reflected in statute or a collective bargaining agreement. Any relevant statutes or contents of a collective bargaining agreement shall take precedence over this Protocol should the contents of this Protocol conflict.

This Protocol addresses the potential for one of the agency's officers becoming involved in a fatal incident, either within or outside of their jurisdiction. As is so typical in these situations, the amount of personnel and other resources used to investigate them lends itself to the use of outside resources. This Protocol allows and, in some circumstances, requires, the use of outside personnel to assist in these investigations.

Therefore, this Protocol and the related procedures are presented for your consideration. It is believed they are sound and take into consideration most of the major concerns related to officer-involved fatalities and their investigation. Permission is hereby granted to law enforcement agencies in other regions to copy, use, modify, or alter them as needed to address the needs of their region or jurisdiction.

. DEFINITIONS

A. "Actor"

A person whose act is a "factual proximate cause" of a fatal injury to another person; or

A person who intends that his/her act be a "factual proximate cause" of serious bodily injury or death to another person, who is actually killed by another; or

A person who has had physical contact with a suspect who subsequently dies in police custody

B. "Administrative Investigation"

The investigation that addresses issues of compliance with the Policies and Procedures and Rules and Regulations of the Employer Agency. Criminal Investigations may be a source of information used in Administrative Investigations.

C. "Command Group"

This group will normally consist of command level or supervisory personnel from the involved agencies, acting as the incident Commander. The Command Group will also be the liaison between the executive officers of both the Venue and Investigative Agencies and the Investigative Response team. The Command group will work closely with the Investigative Response Team and the Executive Team of the affected agencies to ensure a timely flow of information and updates on the progress of the investigation.

D. "Criminal Investigation"

The Investigation that seeks to determine whether criminal laws have been violated. The Criminal Investigation may not utilize information or evidence obtained as a result of the Administrative Investigation that could, in any way, have been derived from compelled statements of commissioned (sworn) employees.

E. "Employer Agency"

The agency by whom the involved law enforcement employee is employed or with which he/she is affiliated. (In many cases the Venue Agency will also be the Employer Agency.)

F. "Fatal Injury"

Death, or injury which is so severe that death is likely to result.

G. "Incident Commander"

The Incident Commander (IC) is the person in overall control of the entire incident and any resources assigned to the investigation. The IC is led by the Unified Command System and is the individual responsible for the management of all incident operations.

H. "Investigative Team"

Individual personnel or unit resources assigned to any part of the criminal investigation into the incident. Criminal Investigators shall focus their efforts in determining if any violation of ordinances or statutes has occurred.

I. "Member Agencies"

The Spokane County Sheriff's Office, Spokane Police Department, and the Washington State Patrol.

J. "Officer-Involved Fatal Incidents"

Incidents occurring in Spokane County, involving two or more people, in which a law enforcement agency employee is involved as an Actor, Subject, or custodial officer, where a "Fatal Injury" occurs. Such "Incidents" include, but are not limited to, the following:

- (1) Any fatal injury to a person who is a passenger of a law enforcement officer (such as ride-along, emergency transports, etc.)
- (2) Vehicular collisions, and specifically:
 - (a) Including any vehicle fatality which occurs:
 - i. after, although not necessarily as a proximate cause of, police gunfire directed at the suspect or the suspect vehicle;
 - ii. in connection with use of vehicle(s) by police as a "legal intervention" technique intended to apprehend a suspect."Legal Intervention" includes vehicle ramming, roadblocks, and forcing a vehicle to alter its course by cutting in front of it

or by contact.

- iii. in police pursuits wherein the suspect vehicle, which is being pursued by law enforcement vehicle(s), collides with another vehicle, a pedestrian, or an object, where that collision did NOT result from contact between the suspect vehicle and a police vehicle or from "legal intervention."
- (b) Excluding any vehicle fatality which involves:
 - i. off-duty non-sworn law enforcement employees who are not, at the time of the incident, acting for an actual, apparent, or purported law enforcement purpose.
 - ii. solo vehicular collisions in which the only injury is to a law enforcement employee who was the driver and sole occupant of a vehicle which was not involved in a collision with any other occupied vehicle.

K. "Police Employee"

This Protocol applies to employees and to certain other people affiliated with the law enforcement agencies that are members of this agreement, as follows:

- Full-time, part-time, and hourly sworn officers, whether on duty or off duty, and whether acting for a law enforcement or private purpose at the time of the incident
- Full-time or part-time nonsworn employees who are on duty at the time of the incident, or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident
- Reserve law enforcement officers who are on duty or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident
- Temporary employees and volunteers, whether paid or unpaid, who are on duty or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident
- Informants, while not employees of law enforcement, when they are working under the direct control and supervision of a law enforcement officer

L. "Proximate Cause"

A cause which, in a natural and continuous sequence, produces the fatal

injury, without which cause the injury would not have occurred. Reasonable foreseeability of the fatal injury is not a factor relevant to this definition. "Proximate Cause," as used in this protocol is not intended to mean the "legal proximate cause" as that term is defined by Washington State case law.

M. "Investigative Response Team"

The investigative response team consists of detectives assigned to the homicide unit of the Spokane Police Department and the Spokane County Sheriff's Office and includes detectives assigned to the Criminal Investigation Unit of the Washington State Patrol.

N. "Venue Agency"

The agency, or agencies, within whose geographical jurisdiction the incident occurs.

O. "Subject"

The person who is injured by the act of the Actor, whether or not this injury is intentional.

P. "Peer Support Group Counselor" or "Peer Counselor"

A person who meets the qualifications of a "peer support group counselor" as that term is defined by RCW 5.60.060(6)(b), and is not otherwise disqualified from maintaining confidential privileged communications by RCW 5.60.060.

II. INVOCATION OF THIS PROTOCOL

A. Automatic and Immediate

Upon the occurrence of an Officer-Involved Fatal Incident (as defined within this Protocol), the invocation of this Protocol is automatically and immediately in effect, upon the request of the Venue Agency.

B. Invocation When Not Required

- 1. Each member agency of this agreement, whether in the capacity of a Venue Agency or Employer Agency, may invoke this Protocol upon the occurrence of any critical event involving a law enforcement employee which may have possible criminal liability attached. Upon this unilateral invocation, the matter will be investigated under the provisions of this Protocol. Examples are as follows:
 - A fatality which is not covered by this Protocol

- An officer-involved incident where the injuries are not fatal
- 2. In lieu of invoking this Protocol, the involved agency may investigate the matter by itself or seek aid from other agencies outside of the Protocol's requirements.

C. Upon The Request of Another Jurisdiction

The request for investigative assistance in an officer involved critical incident would have to be made by the appropriate head of the involved agency to the Board of Directors, which is comprised of the Spokane Police Chief or designee, the Spokane County Sheriff or designee and the Captain or designee of the Spokane District of the Washington State Patrol.

III. INVESTIGATIVE AGENCIES, FORMATS, AND RESPONSIBILITIES

To properly recognize and accommodate the various interests and the various rules of law which may be involved in any incident, investigations of these matters must be performed under two separate investigative formats: the Criminal Investigation and the Administrative Investigation. The Administrative Investigation shall be the responsibility of the Employer Agency, pursuant to its policies and procedures.

A. The Criminal Investigation

- 1. <u>Investigative Priority</u>. The Criminal Investigation has investigative priority over the Administrative Investigation and it begins immediately after an incident has occurred. The Criminal Investigation is performed by the Response Team headed by a case detective and assistant case detective appointed from the Investigative Response Team.
- 2. <u>Investigative Goals</u>. The goal of the investigation is to develop all available relevant information about the incident. When the investigation is completed, including all forensic testing, toxicology report and autopsy report, the case will be submitted to the County Prosecutor. The investigation will contain a summary of facts but not a recommendation of criminal liability of those involved. The exceptions to this procedure are when State stature dictates an arrest of when there is a danger to the public if the subject is not immediately incarcerated. The investigation will allow the County Prosecutor to make a final determination on the presence or absence of criminal liability on the part of those involved in the incident, specifically:
 - a. To determine presence or absence of criminal liability on the part

of those involved in the incident, specifically:

- (1) To determine whether the nature and the quality of the conduct involved is prohibited by statutes which provide for criminal penalties upon conviction; and
- (2) If criminal conduct does exist, determine the identity of the person(s) responsible for that conduct; and
- (3) If criminal conduct does exist, determine the degree of crime(s), the existence of any factual or legal defenses to that crime, and the presence or absence of any factors which would mitigate or aggravate punishment for that crime.
- b. To incidentally provide factual information to the Employer Agency's management for its internal use.

While the Criminal Investigators do not direct their investigative attention to Administrative concerns, it is recognized that the Criminal Investigation's results are of proper interest to Agency Management for its internal use, and those results are fully available for that purpose.

3. <u>Investigative Requirements</u>. The investigation is required to follow the rules of law which apply to all criminal proceedings; these include constitutional, statutory, and case law.

The investigation will be performed in a manner that provides both the appearance and the reality of a thorough, fair, complete, and professional investigation, free of conflicts of interest.

- 4. <u>Investigative Teams</u>. Within the Command Group, the Criminal Investigation will be divided into one or more teams headed by a case detective and an assistant case detective appointed from the Investigative Response Team (the number depending upon the complexity of the incident and upon the number of people to be interviewed). Additionally, investigative support teams may be assigned and may be composed of investigators and investigative supervisors from any member agency operating under the supervision of the Command Group unless other separate agreements prevail.
- 5. <u>Considerations Concerning the Assignment of Case Detectives and</u> <u>Assistant Case Detectives.</u> Assignment of primary investigators is of great importance. Generally, the best available investigators should receive the assignment. The City and County will provide sufficient

training so that the investigative skills of City and County employee Investigative Response team members will be sufficient to meet best practices in the investigation of critical incidents.

- 6. Venue Determination
 - a. More than one jurisdiction: When an incident occurs in two or more jurisdictions, each of those jurisdictions is a Venue Agency.
 - b. On boundary of jurisdictions: When an incident occurs on the boundary of two jurisdictions, or at a location where the relevant boundary is not readily determined or is in dispute, the Venue Agency(ies) shall be:
 - (1) The Employer agency if the Actor is employed by either boundary agency.
 - (2) The agency which has the greater interest in the case by virtue of having the predominant police involvement in the incident or by virtue of having had the majority of acts leading up to the fatality occurring within its jurisdiction.
 - c. Custodial Deaths
 - (1) For custodial deaths, the agency having custody of the person at the time his/her distress was first discovered is a Venue Agency.
 - (2) A Venue Agency may also be the one within whose jurisdiction any fatal action was inflicted.
 - (3) If the death was caused by conduct which was apparently criminal, the lead Venue Agency is one within whose geographical jurisdiction the act occurred. If there is apparently no criminal conduct involved in the cause of death, the lead Venue Agency is the one having custody of the Subject when distress was first discovered.
 - d. If a commissioned law enforcement officer is involved as the Actor in an incident which occurs within the jurisdiction of another member agency, and if that officer was acting in the performance of his/her duty at the time of the incident, the Venue Agency may elect to relinquish its role in the Criminal Investigation to another participating agency.

7. <u>Vehicle Collision Incidents.</u> Vehicle collision fatalities shall be investigated by Collision Investigative Team members. They may be joined by collision investigation specialists from any member agency. The vehicle collision investigation specialists have the primary responsibility for documentation, collection, and preservation of physical evidence.

If the fatality results from an intentional collision (i.e., use of "legal intervention techniques") OR if vehicle movement was merely incidental to a fatality which was caused by non-vehicular means, the collision investigation specialists may be used by the Investigative Team for that phase of the investigation. In these cases, the collision specialist's role will be limited to investigation of physical movement of the vehicle(s) and to collision reconstruction, or to provide other technical assistance as requested by the investigative team

- 8. <u>Scene Security</u>. The Venue Agency has initial responsibility for immediately securing crime scene(s) within its territorial jurisdiction. This responsibility includes preservation of the integrity of the scene(s) and its/their contents, controlling access to the scene(s), and the identification and separation of witnesses. This responsibility may be changed by mutual agreement as the investigation progresses.
- <u>Responsibility for Physical Evidence Collection, Preservation, and</u> <u>Analysis</u>. Applicable agencies having the capability to assist lead investigators in the documentation of the scene(s) and for assisting in the collection, preservation, and analysis of physical evidence should do so.

Prior to the arrival of Forensic Unit, there are several important duties to be performed by law enforcement personnel; see Attachment B.

In unusual cases, the Command Group agencies may all agree that the Forensic Unit need not be called to process the scene(s) and to collect evidence, but shall be used if any Command Group agency desires.

Forensic Unit will assist detectives with evidence and scene documentation, collection, and preservation. Forensic personnel so involved will work under their normal supervisory authority.

Prior to final relinquishment of the scene, the lead detectives, crime scene detectives and Investigative Response Team supervisors will confer to determine if the collection of evidence is complete. At this time the Administrative Investigators will have an opportunity to walk through the scene with the crime scene detectives.

10. <u>Notifications</u>. Upon identifying an occurrence as an Officer Involved Fatal Incident, the Venue Agency(ies) shall make notifications as promptly as
possible to the following:

- a. Intra-departmental officers, as required by that agency's procedures;
- b. The Employer Agency, if applicable and if not yet aware;
- c. The Prosecuting Attorney's Office via the on-call Deputy Prosecutor;
- d. The Actor's labor relations representative;
- e. The appropriate Crime Lab or Forensic Unit;
- f. For vehicular collision deaths, applicable traffic investigation specialists who, by prior agreement, will respond in such instances;
- g. The Medical Examiner's Office upon confirmation of a fatality;
- h. The appropriate Public Information Officer;
- i. Custodial death notifications as follows:
 - (1) The County Sheriff or designated representative (Jail Commander);
 - (2) The Medical Examiner's Office;
 - (3) The Chief of Police or designated representative if the facility is other than the County Jail and is within the geographic jurisdiction or city administrative control of other than the County Sheriff's Office.
- j. Peer Support Group Counselors.

B. SCENE SECURITY AND PROCEDURES

(See also Field Supervisor's Checklist, Attachment A.)

- 1. <u>Emergency Life-saving Measures</u>. Emergency life-saving measures have the first priority.
- 2. <u>Fatal Injuries</u>. If a person is transported to a hospital with "fatal injuries," an officer should accompany that injured person in the same vehicle in order to:

- a. Locate, preserve, safeguard, and maintain the chain of custody of physical evidence;
- b. Obtain a dying declaration, spontaneous statement, statement of then-existing or previous mental or physical state;
- c. Maintain custody of the person if he/she has been arrested;
- d. Provide information to medical personnel about the incident as relevant to treatment, and obtain information from medical personnel relevant to the investigation;
- e. Identify relevant people, including witnesses and medical personnel;
- f. Be available for contacts with the Subject's family, if appropriate.
- 3. <u>Determining Scene Maintenance/Public Safety/Officer Safety</u> <u>Considerations</u>.
 - a. The first non-involved supervisor or, if none is available, the first non-involved officer on scene should inquire as to the circumstances of the incident in order to faithfully fulfill law enforcement's responsibilities to the public and other responding officers.
 - b. The first non-involved supervisor or, if none is available, the first non-involved officer on scene should determine:
 - (1) If any suspects are outstanding or have fled the area.
 - (2) If there are any immediate hazards to the public or other responding personnel.
 - (3) The location of any witnesses, especially non-law enforcement witnesses to the event.
 - (4) The location of evidence or likely location of evidence.
 - (5) The direction of any firearms discharges that might indicate the potential for injured officers or civilians not immediately apparent at the scene.
 - c. When speaking with Actors, questions shall be limited to officer/public safety inquiries and questions necessary to determine the scope of the scene, the location of witnesses, and

likely location of evidence. This is not intended to prevent an officer from being required to provide information regarding the status of suspects and potential danger to others, or from otherwise voluntarily providing information.

- d. When possible, attempt to elicit this information from other than Actors.
- e. If speaking to Actors, restrict their responses to these scene maintenance issues.
- 4. <u>Scene Perimeter</u>. The scene(s) must be secured immediately, with a perimeter established for each scene a sufficient distance away to safeguard evidence. In most circumstances an inner (evidence) perimeter and an outer (control) perimeter are preferable.
 - a. Access to the inner (evidence) perimeter of the scene(s) must be limited only to personnel who must enter for valid investigative purposes as authorized by the Incident Commander or, later, by the Investigative Team.
 - b. A written log will be established as quickly as possible to identify all persons entering the inner (evidence) perimeter of the scene(s), the time of their entry and exit, and the reason for entry.
 - c. When not needed for life-saving efforts, entry by fire and ambulance personnel should be restricted to the absolute minimum necessary to perform the needed duties.
 - d. No items shall be moved inside the scene(s) or removed from the scene without approval of the Investigative Team unless absolutely necessary for public or officer safety or for preservation of evidence. If removal without approval is necessary, the removal must be witnessed and a report must be completed. The report shall state the identity of the person removing the described object, the reason for removal, a witness to the removal, and the time of removal. The item should be photographed prior to removal, if possible.
- 5. <u>Photographs</u>. Photographs maybe taken of exterior scenes from outside of the inner (evidence) perimeter to show lighting conditions, weather conditions and street location. Patrol personnel should not attempt to go inside the evidence perimeter unless the items being photographed are of such a fragile nature that waiting for the Investigative Team and/or Forensic Unit would be impractical due to the danger of the evidence being destroyed by weather or other factors. If photographs are taken by

patrol personnel, a report shall be written by the person who took the photographs

- 6. <u>Weapons</u>. If any type of weapon or instrument was involved in the fatal incident, the supervisor at the scene will promptly see to the security and/or collection of such items, as follows:
 - a. If the area is secure, loose weapons or instruments shall be left in place and undisturbed
 - b. If the area is not secure, the supervising officer at the scene shall decide whether the items can be safely left in place or whether prompt removal is necessary. If such items must be moved or removed for protection, they should be photographed in place prior to removal if possible and a report written
 - If an involved officer still has personal possession of a weapon he/she C. used in the incident, it is usually acceptable for the involved officer to maintain custody and control of the weapon (handgun) on their person during this period of time, as long as an uninvolved officer/investigator is assigned to stay with the involved officer to insure the weapon is not altered. This procedure shall be adhered to until the Investigative Response Team is available to properly document the involved officer's outer appearance and condition of the weapon prior to collecting it. If the responding supervisor/officer for any reason determines the need to take possession of an involved officer's weapon or instrument prior to Investigative Response Team arrival, the weapon should be photographed and documented in the condition it was found prior to being removed from the involved officer. The supervisor/officer should make note of the weapon's general description and condition, the appearance and location of any trace evidence adhering to it, and where the weapon or instrument was first observed by the supervisor/officer.
 - d. In shooting incidents, the investigator shall examine the firearms of all officers who were present at the time of the incident to ensure that all discharged firearms are identified and collected. This collection and processing of all weapons involved in a critical incident will be done so that all evidence including trace evidence will be documented, photographed when practical and collected by the Investigative Team. All weapons involved in the critical incident will be placed on Police Property in adherence to Property Room procedures. Equipment taken from an officer for evidence will be replaced by the Employer Agency in accordance with their policies.

e. Any officer receiving a weapon or instrument from another person,

or obtaining it otherwise. shall note its serial number if readily available, as described above without removing the weapon from its holster or otherwise compromising physical evidence, and shall preserve the chain of evidence at all times.

- f. In general, weapons and instruments will not be disturbed in any way. They shall not be handled by anyone other than the investigator, the Forensic Unit or appropriate crime lab personnel, and these investigators shall handle them minimally to preserve the exact state of the weapon or instrument when received.
- g. Additional live ammunition will be collected from each Actor Officer by the Investigative Team (or from an appropriate source if the officer has insufficient amounts) in order to facilitate any subsequent ballistic testing regarding this incident.
- h. Firearms which do not need to be retained in evidence, as determined by the Investigative Team in consultation with the Prosecutor's Office, and after conferring with the legal department of the Employer Agency, will be returned to a designated representative of the Employer Agency promptly after testing has been completed.
- 7. <u>Other Physical Evidence</u>. Any other physical evidence at the scene which is in danger of being contaminated, destroyed, or removed must be promptly and effectively observed, recorded and then protected for subsequent collection. Examples are evidence adhering to live participants (such as bloodstains), footprints and fingerprints, volatile substances, various types of trace evidence, and firearms discharge evidence.
- 8. <u>Transportation and Separation of Involved Officers</u>. The transporting and separation of involved officers shall be conducted as follows:
 - a. Officers who were present at the scene at the time of the incident, whether Actors or Witnesses, will be relieved of their duties at the scene as promptly as possible and shall be sent to their own agency station unless other suitable and agreeable arrangements are made for them. Officer(s) not involved in the incident shall be assigned to accompany these officers, either in a group or individually. Actors should be driven to the station by an uninvolved officer.
 - b. If circumstances prohibit removal of all witnessing and involved officers from the scene at once, those officers who were Actors should be relieved first.

- c. An uninvolved officer shall remain with the Actors, either in a group or individually, until these officers are interviewed or have been released by an authorized commander. The sequestering officers are present to ensure the officers have privacy, that their needs are accommodated and to ensure the integrity of each officer's later statements to investigators. The sequestering officers should avoid conversation regarding the incident under investigation and should not be present during confidential (privileged) conversations.
- d. Actors are not to discuss the case among themselves, with sequestering officers, or with others, until the Criminal Investigative Team authorizes such. Exceptions to this would be the officer's legal counsel, or others who may have evidentiary privileged communications with an employee.
- e. While awaiting interviews, Actors are encouraged to relax and to carefully reflect upon what occurred in preparation for the follow up investigative process.
- 9. <u>Inmates</u>. When an incident occurs in a jail facility or other location where inmates may be witnesses, inmates should be identified and separated if possible, pending interviews by criminal investigators.
- 10. Interviewing Law Enforcement Employees.
 - a. Generally speaking, it is the intent of Investigative Response Team to obtain details of any officer involved incident as soon as possible after the event by interviewing and obtaining reports/statements from involved officers and witness officers. When interviewing Actors, the Investigative Team will comply with any restrictions contained in bargaining unit agreements applicable to the Actor.
 - b. Investigative Response Team should always give the involved officer the opportunity to provide a voluntary statement or give details of the incident at any point during the investigation If the Actor has invoked his/her right to counsel, such requests must be coordinated through such counsel. Investigative Response Team should be aware that agency policies, union agreements and officer's constitutional rights may delay access to this statement and reasonable effort to identify and comply with these issues should be made. In no event should response team members attempt to question an involved officer who has invoked his/her right to counsel.

- c. Investigative Response Team does not have the authority to issue "Garrity" orders of involved officers. This can only be done by the involved officer's agency head or designee. If an Investigative Response Team member discovers that a "Garrity" order is being issued prematurely they should take steps to prevent this from taking place.
- d. Before a "Garrity" order is given to an involved officer by his/her employer agency the Investigative Response Team member should be given a reasonable amount of time to talk to witnesses, review evidence, and consult among themselves and with the County prosecutor regarding the facts of the case and determine if a "Garrity" order is advisable.
- e. In-Custody interviews will be conducted as any other "In-Custody" would be and Miranda issues are applicable.
- f. Involved officer interviews should be conducted separately.
- g. Investigators shall request to record any interviews.
 - (1) All tapes or digital recordings will be retained as evidence until all aspects of the case are cleared.
 - (2) If an involved officer authorizes the investigative recording, and also requests to audio record his/her interview, the request should not be denied by the investigator conducting the interview. The involved officer's audio recording is solely for his/her use with the officer's legal counsel and/or union representative and shall not be disclosed to anyone other than said representatives without permission of the Agency Head.
- h. Law enforcement employees have the same rights and privileges regarding Response Team interviews that any other citizen would have, including the right to remain silent, the right to consult with an attorney prior to an interview and the right to have an attorney present during the interview. The representative attorney or attorneys should be allowed to consult about the facts of the incident privately with only one law enforcement employee at a time.
- 11. Intoxicant Testing
 - a. Criminal Investigation

Law enforcement employees have the same rights and privileges that any civilian would have regarding intoxicant testing. When Investigative Team members determine that a law enforcement employee's state of sobriety is relevant to the investigation, they have these options:

- (1) Obtain the blood, breath, and/or urine sample by valid consent;
- (2) Obtain a search warrant to obtain samples;
- (3) When applicable, utilize the provisions of the Vehicle Code or state statutes for vehicle driving incidents;
- (4) If an arrestee refuses to comply with the request for a sample, attempts will be made to obtain the sample in accordance with case law.
- b. Administrative Investigation
 - (1) Intoxicant test results obtained by Investigative Team members are available to the Administrative Investigators.
 - (2) In the event the Investigative Team does not obtain samples for intoxicant testing, the Employer Agency may then seek to obtain samples. The Investigative Team members have the first opportunity, however;
 - (a) Authority for the Employer Agency to obtain samples includes (1) valid consent and (2) ordering the employee to provide the samples based on the employment relationship.
 - (b) Some departments have blanket orders regarding employee intoxicant testing while other departments make decisions on a case-by-case basis.
- c. Miscellaneous
 - (1) Urine is best for drug screening and is sufficient for alcohol screening.
 - (2) Samples should be collected promptly after the incident for the most meaningful results.

(3) A law enforcement employee may request to voluntarily provide sample(s) for intoxicant testing even if Investigative Team members haven't obtained samples. This may include a breath test (BAC). Similarly, a person from whom Investigative Team members have obtained samples may request that another sample be taken for independent testing. The taking of this sample and subsequent testing will not be at the expense of the Command Group or Employer. Such a request will be promptly granted.

12. Autopsy

- a. At least one member of the <u>Investigative Response Team or the</u> <u>Collision Response Team</u> will attend the autopsy. Investigators representing other Command Group agencies may also attend. Attendees should have some experience in attending autopsies whenever possible to minimize distractions during the medical examination.
- b. The autopsy pathologist will receive a complete briefing prior to the post-mortem examination. This briefing—which includes all information known to that time which may be relevant to the cause, manner, or means of death—shall be given by at least one member of the <u>Investigative Response Team</u>, the <u>Collision Response Team</u> and/or the applicable agency's evidence technician team.
- c. For autopsies conducted in Spokane, and for autopsies conducted in other counties where the pathologist agrees, the Spokane County Sheriff's Office Forensic Unit has the responsibility for assisting investigators in documenting and collecting physical evidence. In vehicular collision deaths, the Washington State Patrol or other accident investigation specialists have this responsibility. Assistance, if appropriate, will be provided by the applicable agency's crime scene technicians.
- d. Although the Medical Examiner has authority to determine who attends an autopsy, it is permissible to allow attendance by a licensed medical doctor or licensed private investigator, or by a recognized professional criminalist who has been retained by representatives of the decedent.
- 13. The County Prosecuting Attorney's Office

The County Prosecutor's Office has the following roles in Incident Investigations:

- a. Assist and advise the Investigative Teams on various criminal law issues which may arise, such as Miranda, Garrity, voluntariness, search and seizure, probable cause to arrest, detentions and releases, elements of crimes, immunity, legal defenses.
- b. Upon completion of the Criminal Investigation, analyze the facts of the incident as well as the relevant law to determine if criminal charges are appropriate. If so, prosecute as appropriate.

14. Report Writing

- a. All criminal investigators will write reports documenting their participation in the investigation.
- b. The investigators within each Investigative Team will allocate and divide among themselves the responsibility for documenting interviews and observations.
- c. Prompt completion and distribution of reports is essential. All involved agencies and investigators will strive for report completion and distribution within <u>7</u> days of any investigative activity. The Medical Examiner's report may be delayed beyond 30 days pending results of some scientific tests.

IV. THE ADMINISTRATIVE INVESTIGATION

No administrative investigation shall commence until all physical evidence and all voluntary statements have been documented and collected by the criminal investigation response team. No police employee who was involved in any investigative capacity during the criminal investigation shall act as an investigator in any administrative investigation of the same event. Evidence collected during the administrative investigation (after any evidence is compelled from any employee) shall not be made available to any criminal investigator or any prosecutor under any circumstance without providing written notice to the compelled employee.

V. MEDIA RELATIONS

The interests of the public's right to know what occurred must be balanced with the requirements of the investigation and with the rights of involved individuals.

As in all other cases, care must be taken to ensure that intentionally misleading, erroneous or false statements are not made to the media.

Once the Investigative Team has initiated an investigation, all media releases

related to the investigation shall be made by a Public Information Officer (PIO) with the approval of the Team Commander.

It shall be the responsibility of the Employer Agency to determine when the involved officers' names will be released to the public, pursuant to their policies and procedures. Any release of Officers' names will be coordinated with the Team Commander. Any release of evidence to the media will only be done with the approval of the lead investigative supervisor and detective.

Designated Public Information Officers shall adhere to the PIO Protocol.

While any agency cannot be prohibited from making statements to the news media about the incident, these guidelines are established:

A. The Venue Agency

The Venue Agency's PIO will coordinate and release information during the initial phase of the incident. Once the incident command post secures, the duties of the PIO will shift to the acting Team Commander's agency.

Officers in close contact with the Command Group are in the best position to comment about the facts of the case and the progress of the investigation.

B. The Employer Agency

If the Employer Agency is not also the Venue Agency, fewer problems may arise, especially at the early stages of the investigation, if the Employer Agency limits its comments to the following areas:

- 1. The employer-employee relationship;
- 2. Information which has been cleared for release by the Investigative Team Commander

C. The Forensic Unit/Lab of the Applicable Member Agency

Information released will usually be confined to general laboratory procedures, scientific facts and principles and testing procedures. Specific results of searching, testing and analysis will not be released without clearance from an investigator from the primary Investigative Team.

D. The Medical Examiner's Office

Release of information will generally be limited to the following:

- As defined by state law, only the cause and manner of death are public record. The written autopsy report is not disclosable. Involved agencies should be provided information about cause and manner of death prior to public release;
- 2. The identity of those present at the autopsy, including the identity and affiliation of the pathologist(s);
- 3. The general nature of further medical testing or medical investigation being done;
- 4. Information obtained from the Incident Investigators or from the involved agencies will NOT be released by the Medical Examiner's Office without prior authorization from those agencies;
- 5. Information regarding the holding of a Coroner's Inquest;
- 6. Comments upon the verdict of a Coroner's Inquest Jury or upon any testimony or evidence presented to the jury;
- 7. The role of the Medical Examiner's Office in the investigation of death, in general terms.

If Investigative/Collision Response Team members determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.

Interruptions to the investigators will be minimized if the agencies assign particular individuals to be the sole designated contacts with the news media.

VI. ACCESS TO REPORTS AND EVIDENCE

Material which is created or collected by, or at the request or direction of, the Criminal Investigative Team (including the Crime Lab/Forensics Unit) will be made available in a timely manner to those agencies which have an interest in the investigation, including the Administrative Investigators.

The material will include, but is not limited to:

- 1. Reports, written and collected;
- 2. Access to physical evidence;
- 3. Photographs, diagrams, and video tapes;
- 4. Audio tape recordings

When the Response Team and/or Prosecuting Attorney's Office concludes that the physical evidence collected by the Criminal Investigators is no longer needed for criminal law purposes, the Employer Agency shall be notified of that decision so it can assume responsibility for preservation of such evidence if it desires.

VII. CONFIDENTIALITY

Investigators, including protocol Public Information Officers, shall not share information considered "Confidential" with individuals other than assigned investigators.

- A. Information considered confidential:
 - 1. Documents related to a protocol investigation;
 - 2. Verbal statements or conversations related to a protocol Investigation;
 - 3. Information that would compromise an investigation;
 - 4. Information and/or records deemed confidential by law;
- B. Information not considered confidential:
 - 1. Information shared with agencies and individuals outside of the protocol that have been requested by assigned investigators to assist in an investigation. The amount of information shared shall be no more than that information which is pertinent to their role in the investigation.
 - 2. Information shared by the Investigative Team Commander and/or Supervisors with the involved agency's administration that does not compromise an investigation.
 - 3. Information cleared by the Investigative Team Commander for release.
 - 4. Spokane City/ County Protocol with member agencies.

Attachment A

OFFICER-INVOLVED FATAL INCIDENTS FIELD SUPERVISOR'S CHECKLIST

- 1. Life-saving efforts are the first priority.
- 2. Request additional patrol officers, as necessary.
- Assign uninvolved officer(s) to ride in ambulance with injured person(s), for purposes of: (a) securing, protecting and recovering physical evidence; (b) custody of arrestee; (c) documenting spontaneous and other unsolicited statements; (d) relaying information to and from medical personnel; (e) identifying medical personnel; (f) other relevant observations.
- 4. Protect sensitive investigative information; use caution on radio broadcasts. Use cellular phone when possible.
- 5. Have notifications made per department procedures: chain of command, Forensics Lab, Detectives, Medical Examiner/Coroner, Internal Affairs, Prosecuting Attorney, City Legal, Risk Management, Press Info Officer, bargaining unit representative, Peer Support Group Counselors.
- 6. Ask only public safety/officer safety/scene management questions. Examples are:
 - Are there any outstanding suspects that have fled?
 - Are there any immediate hazards to the public or other responding officers?
 - The location(s) of any witnesses, especially non-law enforcement witnesses.
 - The location of evidence or likely location of evidence.
 - The direction of any firearm discharges that might indicate the potential for injured officers or civilians not immediately apparent at the scene.
- 7. Generate radio broadcasts on outstanding suspects, vehicles, witnesses, etc.
- 8. Identify and secure all scenes (original felony, escape/pursuit route, fatal scene, collision scene, suspect vehicle, officer's vehicle, hospital, etc.) with generous perimeters. Prevent scene contamination. Adjust boundaries outward as necessary. Establish an inner (evidence) perimeter and outer (control)

perimeter of generous size, especially early in the process.

- 9. Limit entry into scene(s) to absolute minimum.
- 10. Have scene log started to record every entry and exit to inner (evidence) perimeter (who, what time, why).
- 11. Shooting officer(s) with guns in possession: leave in holster. Don't open or disturb condition or trace evidence. If scene secure, leave discarded weapons in place, untouched, if safe.
- 12. Have Actor(s) and Witness Officer(s) taken to station by independent officer(s). Direct all not to talk about the incident (except to counsel, clergy or others holding evidentiary privilege).
- 13. Have Actor(s) and Witness Officer(s) sequestered with independent/peer support officer until investigative interviews.
- 14. Locate, identify and sequester civilian witnesses, as possible.
- 15. Photograph without disturbing, contaminating or collecting anything, until Forensics Unit arrives.
- 16. Protect (photograph and collect if necessary) physical evidence in imminent danger.
- 17. Start area canvass for more witnesses and to locate relevant vehicles/ weapons/people, etc.
- 18. Determine what responding/scene officers have learned and what they have done.
- 19. Collect your information and thoughts to brief investigators.

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Attachment B

DUTIES OF FIELD OFFICER(S) AT OFFICER-INVOLVED FATAL INCIDENTS

Per the Officer Involved Fatal Incident Protocol, the Sheriff's Forensic Unit (and/or WSP Crime Lab or other applicable labs outside Spokane County) has the responsibility for assisting investigators in the documentation of the scene and for assisting in the collection, preservation and analysis of physical evidence. Pending the arrival of laboratory/Forensic staff at the scene, certain tasks should be undertaken by initial responders of local police agencies. The quality of fragile evidence collected or information obtained can be greatly enhanced if local agency personnel take prompt action rather than waiting for the arrival of the Forensic Lab personnel.

TASKS TO BE COMPLETED PROMPTLY, PRIOR TO ARRIVAL OF FORENSIC UNIT PERSONNEL

- 1. Take immediate steps to secure the scene and control access and routes both within the scene and to the incident site.
- 2. Take a series of photographs to show things that will or may likely change, including emergency medical activities and locations of vehicle. Take care to minimize inadvertent alteration of evidence while taking photos. Stay out of controlled areas.
- 3. Protect (or collect if necessary) evidence in danger of being lost or destroyed, such as shoe impressions/prints or firearms evidence. Consider the ambulance and emergency room as possible locations of evidence. If shoe or tire impressions are evident, photograph if necessary and keep protected so the Forensic Unit can process them.
- 4. Record transient detail such as vehicles in area, lighting (natural and artificial), windows and blinds or curtains (open or closed), doors (locked or unlocked, windowed or windowless), weather, furniture moved for EMTs, etc.
- 5. Record names and information necessary to recontact everyone who entered the scene so that elimination shoe and fingerprints may be obtained later if needed.
- 6. Ensure that someone starts a written log of all persons entering the inner perimeter(s), the time of their entry and exit, and the reason for entry. Multiple scenes separated by distance will ordinarily require a log for each scene.

7. Make a preliminary sketch of scene without taking measurements. The entrance to the scene for purposes of sketching should be minimized to avoid evidence destruction. If the scene or a portion thereof is outside, start sketching this area first to minimize inadvertent alteration of the interior.

Interview sketches which do not illustrate any evidence are very helpful to investigators during the early stages of the investigation as a briefing aid and an aid during individual interviews with witnesses.

CRIME LAB/FORENSIC UNIT PERSONNEL

When Crime Lab/Forensic Unit personnel arrive, they will assist and support detectives who are responsible for scene processing. Forensic Unit Technicians may be requested to assist with sketch preparation, evidence transport, lighting and other duties under the direction of the Investigative Team. Their supervisory chain of command is still with their respective units.

ATTACHMENT C

STANDARD OPERATING PROCEDURES

MISSION: TO PROVIDE EXPERT INVESTIGATIVE AID TO ALL LAW ENFORCEMENT AGENCIES WITHIN THE SPOKANE COUNTY

GOALS OF THE RESPONSE TEAM:

- 1. To investigate incidents following the Officer Involved Fatal Incident Protocol Manual adopted by the Spokane County Sheriff's Office, the Spokane Police Department and the Washington State Patrol.
- 2. To ensure public trust by conducting professional and consistent multijurisdictional investigation of major incidents, primarily officer involved fatalities.
- 3. To maximize the availability and sharing of the latest technological equipment and techniques.
- 4. To consolidate and share the skills of the most experienced supervisors and investigators.
- 5. To ensure thorough investigations are conducted in a timely manner.

BOARD OF DIRECTORS:

The Board of Directors of Spokane Investigative Response Team shall consist of:

- The Spokane County Sheriff or his/her designee
- The Spokane Police Chief or his/her designee
- The Washington State Patrol Captain assigned to the Spokane District or his/her designee

Representatives of the Prosecutors Office and the Medical Examiners Office will be invited to all board meetings and their input will be solicited. For voting purposes and decision-making, it will be the majority rule of the Board of Directors.

The Chairman of the Board of Directors will rotate every three years from the above listed agencies. The Chairman of the Board of Directors shall schedule a meeting of the Board in January of each year. The purpose of the meeting will be to receive a comprehensive report from the Response Team Commander concerning activities of the Team over the past year, address issues pertaining to the operation and support of the Team and address changes to the Response Team protocol. Special meetings may be called at any time by the Chairman of the Board. Special meetings may also be requested by the Response Team Commander.

TEAM MEMBERS/RESPONSIBILITIES:

TEAM COMMAND GROUP:

The Command Group is comprised of the Captains from the Spokane County Sheriffs Office and the Spokane Police Department assigned to the Investigative Division and a Lieutenant from the Washington State Patrol. The Command Group will be responsible for the incident Command and will be the liaison between the executive officer of both the Venue and Investigative Agencies and the Investigative Response Team. The Command Group will work closely with the Investigative Response Team and the Executive Team of the affected agencies to ensure a timely flow of information and the updates on the progress of the investigation. The Team Command Group will ultimately be responsible for the work product of the Investigative Response Team.

TEAM COMMANDER:

The Incident Response Team Commander shall be the lieutenant in command of the homicide unit of either the Spokane County Sheriff's Office or the Spokane Police Department. The Commander position will rotate every two years between the two listed departments. At the discretion of the Board of Directors, that assignment length can be adjusted. The Commander has the overall responsibility to manage and coordinate assigned incidents as well as ensure the readiness and training of the team. The Response Team Commander reports to the Board of Directors and the Command Group.

The Collision Response Team Commander, in the case of a vehicular collision incident, shall be the lieutenant in command of the homicide unit of the Spokane County Sheriff's Office or the Spokane Police Department. The responsibilities are generally the same as outlined above.

ASSISTANT TEAM COMMANDER:

The Assistant Team Commander shall be the homicide lieutenant from the other agency that is not filling the Commander's position. The Assistant Commander has the overall responsibility to manage and coordinate assigned incidents in the absence of the Team Commander. The Assistant Team Commander reports to the Team Commander or Command Group in the Team Commander's absence. The responsibilities of the Assistant Team Commander include arranging, coordinating and documenting all training for the Team, maintaining records of Team call-outs, Team personnel records/roster, and Team equipment inventory and managing the financial transactions/records of the Team.

The Collision Response Team Assistant Commander, in the case of collision incident, shall be the lieutenant in command of the homicide unit of the Spokane County Sheriff's Department or the Spokane Police Department that is not filling the commander's position. The responsibilities are generally the same as outlined above.

ROLES OF THE TEAM COMMANDER AND ASSISTANT COMMANDER DURING A CALL-OUT:

The command of a particular incident will be determined by which agency is the Venue or Employee's Agency. The Team Command Group Officer and the Team Commander of a singular incident will not be a member of the Venue or Employee's Agency. If two of the three involved agencies are involved in a fatal incident the lead investigative agency will be the uninvolved agency. The Board of Directors will decide which agency will assume the role of Team Commander for the incident.

INVESTIGATIVE TEAM SUPERVISORS:

- Investigative Team Supervisors shall be sergeants from the Spokane County Sheriff's Department, the Spokane Police Department and the Washington State Patrol. The sergeants from the Sheriff's department and the Police department will be assigned to the homicide units, and the sergeant for the State Patrol will be assigned to the criminal investigation unit at the Spokane district. If an additional supervisor(s) is needed, the Team Commander shall designate an acting supervisor. The lead supervisor will be a member of the Team Commander's (for this incident) agency.
- At the direction of the Team Commander, Investigative Team Supervisors shall respond and take direct charge of the crime scene investigation. There will always be a designated lead supervisor.

INVESTIGATORS:

Investigation Response Team (I.R.T.)

 Investigators shall be detectives who are currently assigned to the homicide units of the Spokane County Sheriff's Department and the Spokane Police Department, along with the detectives assigned to the criminal investigative unit of the Washington State Patrol's Spokane District. Investigators shall work in two or more person teams to complete specific investigatory tasks at the direction of the Response Team lead supervisor. One person shall be designated as the lead investigator for each team; the lead investigator will not be a member of the Venue/Employee's Agency.

Collision Response Team (C.R.T.)

 In the case of an incident involving a vehicle collision, investigators shall be assigned from the group of appropriate traffic investigative units of the Spokane County Sheriff's Department, Spokane Police Department and Washington State Patrol. Investigators should work in teams as described above based on the scale and scope of the incident. Any collision under this protocol will have at least one investigator who is certified at the Collision Reconstruction level. The lead investigator must be Collision Reconstruction certified and who is not a member of the Venue/Employee's Agency.

ACTIVATION:

- A Chief of Police or the Sheriff or their designee shall make the request for the Investigative Response Team or the Collision Response Team to the Spokane Combined Communication Center.
- Dispatch shall contact the I.R.T. Commander or the C.R.T Commander through the standard call-out instructions.
- Call-out instructions for the Response Teams shall be provided to the Communication Center by the I.R.T. and C.R.T. Commander.
- The I.R.T. or C.R.T. Commander shall assign a Supervisor as the Lead Supervisor. The Lead Supervisor shall be responsible for determining how many investigators will be needed. In cases of officer involved fatalities, the Lead Supervisor shall not be from the employing agency

NOTE: Each department should establish their own guidelines as to when and if they will request assistance from the I.R.T. or C.R.T. While formed primarily to investigate officer involved fatalities, this protocol can be deployed for non-officer involved incidents. Departments are under no obligation to request the assistance of the Investigative Response Team or the Collision Response Team.

AUTHORITY:

Once the Command Group has agreed to investigate an incident as requested by the venue agency representative, the Command Group shall have sole and exclusive authority concerning the investigation of the incident.

VENUE AGENCY RESPONSIBILITIES:

- The venue agency shall be part of the I.R.T./C.R.T. agreement.
- The venue agency shall ensure proper crime scene protection.
- The venue agency shall make the initial request for I.R.T./C.R.T.

- The venue agency shall provide an Incident Commander.
- The venue agency shall make all department personnel available to I.R.T./ C.R.T.
- The venue agency shall indemnify participating agencies and their employees with an option that the Board of Directors ensures that there is indemnity.
- The venue agency shall be responsible for all reasonable investigative expenditures.
- The venue agency shall make all documents, reports and information available to the Investigative Response Team.
- The venue agency shall allow use of space and equipment as needed by the I.R.T./ C.R.T.

COSTS:

Each participating agency shall be responsible for their employees' wages and associated costs. Any non-routine costs shall be the responsibility of the venue agency.

EVIDENCE:

Evidence Storage:

All evidence shall be stored under the control of the Spokane Police Department's Property Room. The venue agency shall be responsible for storage and handling costs of extraordinary items such as vehicles, HAZMAT, etc.

Evidence Retention:

No evidence shall be released or destroyed without consent or agreement of the other agencies involved in the investigation. Once the criminal prosecution is completed all property owned by private citizens will be released in accordance to State law.

CASE FILES:

- All original reports, statements and other documentation shall be filed and maintained by the investigator's parent agency. Copies of reports, statements and other documentation shall be submitted to the Investigative Response Team Lead Investigator.
- Copies of all case files shall be made available to the venue agency and/or the employing agency.
- Once the criminal prosecution is completed, the case file will be turned over to the assistant lead detective for retention.

RECORDS:

Records shall be maintained of all Team activity, including:

- Personnel history
- Call-out activity
- Team and individual training

HOMICIDE TEAM TRAINING:

Basic Training:

- Criminal Investigation
- Basic Homicide Investigation
- Crime Scene Investigation
- Interviewing and Interrogation Techniques
- Officer Involved Shooting Investigation
- In-Custody Death Investigation

Aforementioned courses maybe waived based upon experience of investigators and/or OJT but should be the basic/core training that each agency provides for their investigator on the team.

Advanced Training:

The following advanced training is recommended for team investigators:

- Advanced Homicide Investigation
- Advanced Reid Techniques of Interviewing and Interrogation
- Blood Spatter
- Crime Scene Laboratory Services
- Crime Scene Preservation
- Crime Scene Photography
- Criminal Investigative Analysis
- DNA
- Sudden Infant Death Syndrome
- Other related training, seminars and conferences or on-going training as offered by the WSCJTA or other training venues on an as available basis.

COLLISION INVESTIGATIVE TEAM TRAINING:

Basic Training:

- Basic Collision Investigation
- Criminal Investigation
- Advanced Collision Investigation
- Interviewing and Interrogation

• Technical Collision Investigation

Advanced Training

- Technical Collision Investigation
- Reconstructive Collision Investigation

In-service Training

- The Investigative Response Team shall strive to maintain a team of highly skilled and trained investigators.
- The I.R.T. shall train together as a team each quarter.

APPOINTMENT/ SELECTION OF TEAM MEMBERS:

APPOINTED MEMBERS

- The Team Command Group shall be the Captain from either the Spokane County Sheriff's Office or the Spokane Police Department who is assigned to the Investigation Division and a Lieutenant from the Washington State Patrol.
- The Team Commander shall be a lieutenant from either the Spokane County Sheriff's Office or the Spokane Police Department, who commands the homicide division for their respective agency. The Team Commander will serve for (2) years. The Team Commander can be removed from this position by a majority vote of the Board of Directors.
- The Assistant Team Commander shall be the lieutenant from either of the above mentioned agency who is not serving as the Team Commander.
- The I.R.T. Supervisors shall be sergeants from the homicide units of the SCSO, SPD and the criminal investigation unit of the WSP.
- The C.R.T. Supervisors shall be sergeants from the traffic units of the SCSO, SPD or WSP.

SELECTED MEMBERS

I.R.T. Investigators shall be the detectives assigned to the homicide units of the Spokane County Sheriff's Office and the Spokane Police Department and the detectives assigned to the criminal investigative unit of the Washington State Patrol's Spokane District.

C.R.T. Investigators shall be the personnel assigned to the traffic/collision investigation units of the Spokane County Sherriff's Office, the Spokane Police Department and the investigators assigned to the appropriate unit of the Washington State Patrol's Spokane District.

REMOVAL FROM TEAM:

Members of the Incident Response Team will be removed when they either transfer or promote out of the homicide unit of the Spokane County Sheriff's Office or the Spokane Police Department, or the criminal investigative unit of the Washington State Patrol. Members of the Collision Response Team will likewise be removed if they transfer or promote out of the Traffic Unit of that agency. Members of the Team can be removed with cause by majority vote of the Board of Directors. **EQUIPMENT:**

Investigative Response Team member agencies shall work together to ensure that the I.R.T. has the necessary equipment to support the mission and goals of the Team. Agencies shall supply each Team member with basic safety equipment to adhere to current WISHA or OSHA blood borne pathogens rules.

INCIDENT DEBRIEFING/KEEPING AGENCIES INFORMED:

- An Incident Debriefing for I.R.T. Investigators will be conducted as soon as practical after each activation. The debriefing will be scheduled and conducted by the I.R.T. Commander of that particular activation.
- The I.R.T. Commander shall ensure the involved agency's Chief Administrator is kept informed of the progress of the investigation. Under no circumstances will information be released that may compromise an I.R.T. investigation.

Use of Force

Supporting Documentation:

Officer-Involved Shooting Investigative Training



The Washington Homicide Investigators Association in conjunction with the Spokane County Sheriff's Office present this one day, 8 hour training class being held at the Spokane County Sheriff's Office Training Center.

Investigating and Responding to Officer Involved Shootings



This class is open to any sworn Federal, State, Local or Tribal Law Enforcement Officer, Investigator or Command level; Prosecutors, Union officials and Attorneys, and any other government official involved in the OIS Process. This presentation is designed to provide a procedural foundation for Officer Involved Shooting (OIS) investigations. It is the presentation of the system instituted by the Seattle Police Department after an intensive two year evaluation of the way they conducted OIS investigations and up close evaluations of several large police agencies.

This class is **FREE** For WHIA members, \$25 for non-members which includes a I year membership Class will be from 0800-1600 hours at the Spokane County Sheriff's Office Training Center located at 10319 E.Appleway, Spokane Valley, WA.. Click <u>HERE</u> for directions. Attendees will receive a certificate of completion and a handout materials disc. Coffee will be provided, lunch is responsibility of attendees.



Some of the issues covered include:

The 8 necessary elements of an OIS response Facilitating transparency and public accountability, and include citizen review of the investigation -Media management issues -Issues of on-scene statements of the shooter officer and witness Officers -Use of Garrity/Kastigar and compelled statements -The OIS that is obviously a criminal investigation from the start, how that is determined and by whom. -Internal Affairs involvement in an OIS. -Legal care of the shooter Officer; Attorneys and Union rep involvement. -Mandatory MHP visit, who pays for it, how it is documented and who has access to the records. Our CISM team. -Scene response and investigation. -Gag orders, duration, trigger for rescinding the gag order. -Patrol car video, private sector video, Does the Officer get to view their own video prior to making a statement? -Handling & processing of the shooter Officer's weapon and other equipment. -Photographing the shooter Officer. Taser issues, related evidence collection and data down loads. The special dynamics of a multiple shooter OIS. -Grand jury, Coronor's Inquest. -The SPD Shooting Review Board, its function and composition.

The handling of animal shootings, and accidental/unintentional discharges.

Instructors:

Detective/Sgt Bob Vallor, Seattle PD Homicide Unit. Sgt. Vallor is a 34-year veteran of Law Enforcement, 24 years of that in investigations. He is currently a supervisor in the SPD Homicide Unit where he has been assigned for 10 years. Sgt Vallor was a part of the OIS procedural research and re-write team for its duration.

Detective Al Cruise, Seattle PD Homicide Unit. Detective Cruise is a 26-year veteran of law enforcement, 14 years of that in investigations, the last 10 in the Homicide Unit. Detective Cruise was also a part of the 2007 OIS procedural research and re-write team.

Sgt Vallor and Detective Cruise have made this presentation to over 200 investigators representing 50+ agencies.

Sign Up to Attend

Click <u>HERE</u> to sign up or go to the Training and Conferences pages at www.wahia.org. The class is FREE to WHIA members, \$25 to non-members which includes a 1 year membership. Go to the Sign Up page whether or not you are currently a member.

This training sponsored by the Washington Homicide Investigators Association and the Spokane County Sheriff's Office.









Use of Force

Supporting Documentation:

Department of Justice Early Intervention System Planning and Management Guide Reference

Purpose:

Department of Justice is known for providing training and guidance in line with best practices COMMUNITY ORIENTED POLIC U.S. DEPARTMENT OF JUSTICE



Early Intervention Systems for Law Enforcement Agencies:

A Planning and Management Guide

www.cops.usdoj.gov



- Early Intervention (EI) systems are an effective mechanism for enhancing accountability within law enforcement agencies.
- Police managers experienced with EI systems report that they have a positive impact on officer performance and that they strengthen supervision.
- El systems are extremely complex administrative tools that require close attention by police managers.
- In creating an EI system, careful decisions need to be made about the number of performance indicators to be used and the thresholds to be used to identify potential problem officers.
- For an El system to be effective, sergeants and other supervisors need extensive training about their new responsibilities.
- El systems are consistent with the goals of Community Policing and can help to improve police-community relations problems.
- Careful planning is essential in the development of an effective El system. The key to the planning process is the involvement of officers from all ranks of the department.
- El systems are a "work in progress." Existing systems need to engage in a process of continuous review and fine-tuning.
- This report focuses on EI in larger agencies: the exact size and scope of EI systems for small and medium-sized law enforcement agencies is not known at this time.
- The law enforcement profession needs to sponsor continuing policy development related to El systems.
- Additional research is required on the impact and effectiveness of El systems.



Introduction to Early Intervention Systems

The Concept of Early Intervention

An Early Intervention (EI) system is a data-based management tool designed to identify officers whose performance exhibits problems, and then to provide interventions, usually counseling or training, to correct those performance problems. EI systems have emerged as an important mechanism for ensuring police accountability.¹

El systems do more than just focus on a few problem officers. As a 1989 report by the International Association of Chiefs of Police (IACP) explains, an El system is "a proactive management tool useful for identifying a wide range of problems [and] <u>not just a system to focus on problem officers</u>."²

In an EI system, performance data are entered into a computerized database. These data include departmental use-of-force reports, citizen complaints, officer involvement in civil litigation, resisting arrest charges, and other performance indicators. Some current EI systems use a dozen or more performance indicators while others use a smaller number.

An EI system is early in the sense that it helps to identify officer performance problems that do not warrant formal disciplinary action but suggest that an officer is having problems dealing with citizens. The major contribution of an EI system is its capacity to spot patterns of performance and to intervene before problems lead to a serious incident such as a lawsuit, a citizen complaint over excessive force, or some other public crisis involving the department. An EI system warns an officer to the extent that it sends an informal but nonetheless clear message that his or her performance needs improvement. Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide

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An EI system is officially separate from the formal disciplinary system. It is designed to help officers improve their performance through counseling, training, or coaching. No record of participation in an EI program is placed in an officer's personnel file, although a separate record of participation is usually maintained by the internal affairs or professional standards unit. One or more of the incidents identified by an EI system may warrant formal disciplinary action that is officially recorded, but identification by the EI system remains separate from the disciplinary process.

EI systems are data-driven mechanisms of accountability, providing systematic data as a basis for performance evaluations of officers. They differ from traditional performance review systems that rely heavily on subjective assessments such as "works well with people" or "demonstrates initiative."³ The database can identify specific areas of performance that need correcting (e.g., a pattern of citizen complaints alleging rudeness).

Bob Stewart, former Executive Director of the National Organization of Black Law Enforcement Executives (NOBLE), says that "If I could choose only one accountability mechanism, it would be an early intervention system." Stewart has seen police performance problems from several perspectives: he was a police officer in Washington, DC, the chief of police in Ormond, Florida, and is now a consultant to communities and law enforcement agencies around the country. Based on this long experience, he now regards EI systems as the single most valuable tool for achieving accountability, primarily because of their capacity to monitor a wide range of officer activities and to spot performance problems at an early stage.⁴

EI systems are retrospective performance reviews. They do not attempt to predict officer performance based on background characteristics or other factors, rather they indicate that current performance levels, while not warranting disciplinary action, still warrant improvement. Past efforts to develop a methodology for predicting which applicants for police employment will perform well and which are not likely to perform well have not proven successful.⁵ An EI system provides a basis for counseling or

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warning an officer that his or her performance needs to improve in the future, and in successful cases, for documenting that the improvement has occurred.

EI systems are designed to help officers improve their performance. The names of several EI systems reflect this orientation. The New Jersey State Police EI system is known as the Management Awareness Program (MAP), indicating its purpose of assisting management. In this respect, EI systems represent a significant departure from traditional police disciplinary practices. Law enforcement agencies have been punishment-oriented bureaucracies, with innumerable rules and regulations that can be used to punish an officer, but with few procedures for either rewarding good conduct⁶ or helping officers with problems. Apart from employee assistance programs (EAP) designed to address substance abuse or family problems, police departments have done relatively little in a formal way to correct problem behavior.⁷ An EI system helps to identify specific performance problems that need to be addressed (e.g., a tendency toward verbal abusiveness, frequent charges of resisting arrest, etc.).

EI systems represent a problem-solving approach to officer performance. The problem in this instance involves questionable officer performance. The problem-solving involves identifying officers in need of assistance and providing that assistance through counseling or training. (The EI problem-solving process is discussed in detail later in this chapter.) As one commander with EI system experience explained, his agency's EI system "provides a way for the department to provide non-disciplinary direction and training before the officer becomes a liability to citizens, the department, and him/herself" (See Chapter Four).

EI systems are very similar to COMPSTAT programs. COMPSTAT is one of the most important innovations in police management. It is a data-based system designed to help law enforcement agencies respond effectively to crime and disorder and to hold their managers accountable for their performance.⁸ Both EI systems and COMPSTAT programs rely on the analysis of systematic and timely data—in the case of COMPSTAT the data Chapter 1

involve crime and disorder, with EI systems the data involve individual officer performance.

EI systems are consistent with the basic principles of personnel management and human resource development.⁹ Employers recruit, select, and train employees to effectively serve the goals and objectives of their organizations. Effective personnel management assumes that employee performance is assessed and evaluated on a regular basis, and that the organization takes steps to correct unsatisfactory performance.

Contrary to the expectations of many people, EI systems have not encountered significant opposition from police unions representing rank and file officers.¹⁰ To be sure, there has usually been grumbling and fear of the unknown, but in practice unions have not succeeded in blocking the operation of an EI system once it is in place. The police managers' survey reported in Chapter Four of this report found that only 16 percent of managers had encountered serious opposition from police unions. Potential opposition from unions is best overcome by involving union representatives in the planning of an EI system (see Chapter Five).

EI systems are consistent with the goals of community oriented policing (COP). Community policing creates demands for responsiveness to community residents and in the process new measures of police performance. The traditional measures of the crime rate and the clearance rate are no longer adequate. EI systems have the capacity to quickly document the performance of officers who are not effectively serving the community and provide a basis for remedial action by the department.

The available evidence indicates that EI systems are successful in achieving their goals of reducing officer misconduct. An NIJ study of EI systems in three police departments found significant reductions in use-of-force and citizen complaints among officers following EI intervention.¹¹ Commanders with EI system experience, meanwhile, are able to report specific examples of individual officers whose performance improved as a result of intervention. One commander, for example, has described an
Chapter 1

officer who had on-the-street problems because of an excessive fear of being struck in the face. Intervention counseling identified the problem and retraining in tactics helped the officer overcome the problem. Commanders report many other such success stories. In the survey of managers which is summarized in Chapter Four of this report, about half (49 percent) reported that the system has had a positive impact on the on-the-street performance of their officers, while almost a third (28 percent) reported a mixed impact. No commanders reported a negative impact.

Chapter Three of this report discusses in detail the research findings regarding the effectiveness of EI systems. Chapter Four, meanwhile, reports the findings of a survey of police managers with EI system experience. Generally, managers have had very positive experiences with the impact of their systems of supervision and accountability.

BOX 1.1 El Systems: An Overview

- · Data-based management information system.
- · Capacity for identifying and correcting performance problems.
- · Recommended police accountability "best practice"
- · Separate from the formal disciplinary system
- · Consistent with the goals of Ccommunity Ppolicing
- · Consistent with the process of Pproblem-Ooriented Ppolicing
- Rely on systematic and timely data
- · Consistent with the process of COMPSTAT
- Careful planning is needed for development and implementation

A Word About Terminology

Early Intervention

This report uses the term *early intervention*. It does not use the more widely used term *early warning*. *Early warning* has a negative connotation, suggesting that the system is primarily oriented toward discipline. One department with a comprehensive EI system found through interviews with officers that they did not like the phrase *early warning* because of its "big brother"

Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide

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connotation. EI systems are evolving in the direction of more comprehensive personnel assessment systems, for the purpose of examining a broad range of performance issues. For this reason, the more positive *early intervention* term is used here. Other terms are also appropriate. These include *Personnel Performance Index*, as used by the Los Angeles County Sheriff's Department, or the *Personnel Assessment System (PAS)*, as used by the Phoenix Police Department.

Officers With Performance Problems

This report uses the term *officers with performance* problems rather than the commonly used term *problem officers*. The latter terms unfairly labels officers and suggests that their performance cannot change. The term *officers with performance problems* focuses on behavior without labeling an officer and conveys the message that performance can improve.

A Recommended Best Practice in Police Accountability

EI systems have been recommended by a wide range of organizations as a best practice in police accountability.

- A January 2001 report by the U.S. Department of Justice (2001), *Principles for Promoting Police Integrity*, includes EI systems among its recommended best practices.¹²
- The Commission on Accreditation for Law Enforcement Agencies (CALEA, 2001) has adopted Standard 35.1.15 mandating EI systems for large agencies. The CALEA Standard states that:

A comprehensive Personnel Early Warning System is an essential component of good discipline in a well-managed law enforcement agency. The early identification of potential problem employees and a menu of remedial actions can increase agency accountability and offer employees a better opportunity to meet the agency's values and mission statement.¹³

Supporting Documentation:

Spokane Police Department Early Intervention System Software

Purpose:

A proactive approach to identify latent issues as related to officer performance that can reduce the probability of more serious issues occurring at a later time

IAPRO EARLY INTERVENTION

When serious misconduct happens, the question is sometimes asked: "Could we have seen this coming?"

Why Early Intervention?



BlueTeam's EI dashboard communicates out-of-standard performance at a glance



Histogram-based analysis shows frequency of officer-involved indicators

Officer/employee	Arrest	< Score/Rank	
Captain James Avery	13	15.38	
Detective Michael Sousa	17	11.76	
Detective Gary Sinniger	32	8.33	22
Lieutenant Kevin Perry	- 41	7.32	810
Sergeant James Roberts	42	2.38	85
Detective Kenneth Spivey	55	1.82	
Trooper 1st Class John Boone	222	1.8	
Detective Jarri Skrocki	73	1.37	
Captain Renee Johnson	156	1.28	
Detective John Encarnacao	83	1.2	
Trooper 1st Class John Grover	184	1.09	
Trooper 1st Class Hichael Reynolds	116	0.66	
Trooper 1st Class Thomas Heverset	252	Q.79	
Lieutenant Dennis Santos	145	0.69	
Sr Trooper Phill Kilgore	149	0,67	
Trooper 1st Class Theresa Boman	165	0,61	.r

Early Intervention analytics include drill-down capabilities

Often, by the time serious professional misconduct emerges, the only available approach is one that's investigative and potentially disciplinary in nature. Costly and time-consuming investigations ensue, many leading to difficult decisions with far-reaching impact on individuals' reputations and livelihoods.

A PROACTIVE APPROACH

Instead of waiting for a crisis to emerge, addressing latent problems early can potentially reduce the incidence of more serious problems later on. If detected in its early stages, a problem will tend to be more easily dealt with, and at lesser cost.

LESS RISK, LESS LIABILITY

Identifying and addressing errant performance early on, before it escalates, holds the promise of reducing liability, mitigating risk, and enhancing the integrity and reputation of the organization, and the entire profession.

RÉMEDIAL APPROACHES THAT ARE SUPPORTIVE, RATHER THAN PUNITIVE

In dealing with early-stage issues, different remedial approaches are available that can be more supportive than adversarial. Non-disciplinary programs that assist rather than punish have the potential to produce positive outcomes with improvements in performance, behavior and professional conduct.

A KEY "BEST PRACTICE" FOR PUBLIC SAFETY

In recent years, early intervention has become accepted as a "best practice" throughout public safety. Where-ever early intervention programs have been instituted, they have played a critical role in lessening risk, upholding integrity, and supporting professional development.

Supporting Documentation:

Letter of Support from Scott Greenwood (Civil Rights and Constitutional Attorney)

Spokane Police Department To Work With National Policing Leaders to Implement Collaborative Agreement and Enhance Accountability

The Spokane Police Department's decision to deploy on-body recording systems is a key part of its proactive strategy to implement the City's Collaborative Agreement with the Department of Justice COPS Office. SPD is fully committed to enhancing both accountability and police/community relations in that process. To that end, we are pleased to announce that we will be working with Greenwood & Streicher, LLC. Its principals are two of the most respected names in law enforcement – Scott Greenwood and Tom Streicher. Scott Greenwood is a leading constitutional lawyer and police accountability expert, and his work emphasizes enhanced accountability, transparency, and legitimacy in best-practices law enforcement. He also serves as general counsel for the American Civil Liberties Union, the nation's largest civil rights and civil liberties organization as a member of its national board. Tom Streicher retired as police chief in Cincinnati in 2011, transforming Cincinnati PD from an agency saddled with community distrust, allegations of racial bias, and significant excessive force issues into a model agency now widely emulated. For those efforts, Streicher received awards in 2008 from the IACP (Int. Assn. of Chiefs of Police and in 2011 from both PERF (Police Executive Research Forum), and the Major Cities Chiefs Association.

Their history together was born from the same sorts of challenges that Spokane faces. From 2002 to 2008 Greenwood served as lead counsel and led a team that brought together the minority community, the ACLU, the police union, and the Cityto forge Cincinnati's Collaborative Agreement. Tom Streicher's vision in implementing that agreement manifestly changed the police department's philosophy, strategy, and culture. These people, who started as leaders of opposite sides in Cincinnati, were able to bridge the divide. Their success transformed the community and has been widely acknowledged as the most comprehensive and successful police reform agreement in America. We are going to work with them to make Spokane an example of a community that can do the same thing.

While they cannot be here today, they want to make sure that you hear this from them. "Spokane is very much ahead of the game in going through the process with the COPS office, engaging the community, and proactively adopting on-body recording systems. The police department and the city deserve and should get a great deal of credit for that. Reform is a challenging process, but the results will enhance both police/community relations and accountability, and make Spokane a premier example of a city that believes that constitutional policing is also effective policing."

Supporting Documentation:

Model Body Camera Policy provided by Greenwood and Streicher

On- Body Recording System (OBRS)

References:

List here references to any other department procedure where dual responsibility exists for department members, as it pertains to the function of OBRS, care of department equipment and the collection of evidence. Specific case law, i.e. Graham v. Connor, should also be included in this section

Graham v. Connor, 490 U.S. 386, 395-96 (The Supreme Court 1989).

Harmon, R. A. (2008). When is police violence justified? *Northwestern University Law Review*, 1129.

Purpose:

Establish a policy regarding the use of On-Body Recording Systems by members of the police department and to establish a policy regarding the storage, release, and retention of OBRS audio/video (A/V) files maintained in department approved storage devices.

Policy:

The ______ Police Department is committed to protecting the constitutional rights of all people. We recognize the need to continuously improve our knowledge and application of the law as it pertains to our members in their individual capacity as law enforcement officers, and collectively, as a law enforcement agency. In pursuit of our mission, we further recognize the benefit of employing equipment and technology that will assist us in our ethical, legal and moral obligation to identify, collect and preserve the very best evidence of every encounter between our officers and the public. This is especially true where the possibility exists that our officers may determine it necessary to exercise their legal discretion, power, and authority, in concert with a police intervention, under the color of law. As such, we have chosen to implement the use of on-body recording systems as the primary means of attaining this goal. Our department has, therefore, chosen the <u>brand name here</u> on-body recording system to equip officers with the technology that is most capable of fulfilling our obligation and securing the public trust. We believe the implementation of on-body recording systems will significantly assist our agency in obtaining an ever increasingly, higher degree of enhanced accountability to the communities we serve and protect.

Procedure:

- A. OBRS equipment issued to a member of the department is the responsibility of that officer. The OBRS equipment will be operated according to manufacturer's recommendations and department regulations.
 - 1. All officers operating OBRS equipment will wear the A/V recording device and power pack supplied with each system.
 - 2. Prior to leaving their assigned duty station, all officers are required to ensure their OBRS equipment is working properly and that the date and time are accurate.
 - a. The officer will check the OBRS by conducting a brief recording of himself or herself which will include the officer's name, badge number, unit of assignment, date and time.
 - 1) All components of the OBRS will be tested to ensure it is in proper working order and functioning appropriately.
 - b. After recording, the officer will review the video to verify the audio and video test recorded properly.
 - c. Officers will immediately notify a supervisor if any problems with the OBRS are detected or the system is not functioning properly.
 - d. Officers will include confirmation of having tested their assigned OBRS on the daily activity report, along with any indication of a malfunction in the equipment, if one exists. When the unit is determined by the assigned officer to be functioning properly, the letters "AOK" will be entered on the daily activity report.
 - e. Officers will ensure their OBRS has been downloaded of all previous recordings and ensure they are beginning their tour of duty with a cleared system.
 - f. Officers will ensure they begin their tour of duty with a completely charged power source for their assigned OBRS.
 - g. Officers will inform a supervisor of any recorded sequences that may be of value for training purposes.
 - h. If during an officer's tour of duty, any portion of the OBRS malfunctions, the officer will immediately notify a supervisor of same.
 - 3. The OBRS camera will be worn in a position that permits recording, as closely as possible, that which an officer is looking at during an intervention in which the officer is involved or present.
 - a. The camera will be worn on the officer's strong (gun hand) side and mounted to the officer's department issued sunglass/protective eye wear frames or on the officer's personally owned eye glass frame, if so desired.



Point of View Video When It Matters Most, Show What Really Happened.

WHY AXON FLEX?

- More Options for Officers With limitless mounting configurations... the officer chooses what works best.
- An End-to-End Solution AXON Flex paired with EVIDENCE.com provides a simple to use end-to-end solution to manage your digital data.
- The TASER Experience Piece of mind, world-class customer service, support, reliability and training is what you get when you choose TASER.

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POV

Video







Retina Low Light



Automated **Cloud Integration** Workflows





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Secure Solutions

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BENEFITS

- Improves behavior of all parties during police - 3 interactions.
- Reduces false complaints and lawsuits by accurately capturing video from the officer's perspective.
- Saves time and increases efficiency officers spend more time on patrol with automated workflows that reduce administrative workload.
- Pre-event video buffer yields the greatest reduction in complaints and lawsuits when actions leading up to the incidents are recorded.
- Low light recording best shows what the human eye l. actually sees.





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TASER Assurance Plan

SPECIFICATIONS

- Weather Resistant – IPX2- MIL- STD 810F Method 506.4 procedure 1 (Rain & Blowing)
- Retina Low Light Capability ≤.1 lux ۰.
- Configurable A/V Settings Bit Rate (Multiple Settings to Optimize File Size and Upload Speed) Audio - on/off
- Video Sensor Settings 30FPS
- Video Resolution 640 x 480
- Server Configurable EVIDENCE.com Connected or Local Download
- Field of View 75 degrees
- Record Time 4 hours
- 12+ Hour Pre-Event Buffer Captures Previous 30 Seconds from Start with No Audio
- Battery Stand by Time in Buffering 12+ Hours
- Recharge Time 12 Hour Use in about 6 Hours
- 12 Power Activation – Slide Switch
- Record Activation Push Button Double-Press to Start Recording, φ. 3-Second Hold to End Recording
- Volume Control 4 Step Momentary Press рą.
- Video Playback via Phone Application or MDT Application 11
- GPS Coordinates via Phone Application Operating Temperature - -20 to +50 degrees C
- Drop Test 6 Feet
- Humidity - 80% Non Condensing
- Warranty (Camera/Battery) - 1 Year on Camera, Accessories 90 Days
- Storage 8 GB





AXON FLEX On-Officer Camera



AXON Flex Benefits.



Protection every officer deserves.

U.S. law enforcement spends approximately \$2 billion in settlements each year to resolve claims.

Agencies deploying POV video report dramatic decreases in complaints – many report 100% decrease in claims (UK Study).

Improves behavior

of all parties during police interactions.

Reduces false complaints and lawsuits

by accurately capturing video from the officer's perspective.

Enhances public trust and creates safer communities at a lower cost. Saves time and increases efficiency

- officers spend more time on patrol with automated workflows that reduce administrative workload.

Pre-event video buffer

yields the greatest reduction in complaints and lawsuits when actions leading up to the incidents are recorded.

Low light recording

best shows what the human eye actually sees.

AXON Flex Options









Collar







Eyewear

Ball Cap

Helmet

Epaulette

Body

Car

3.3 inches



AXON Flex = More Options

No other officer-worn camera solution on the market today offers more mounting options than the AXON Flex.

End-to-End Solution (automated workflows)

AXON Flex video paired with EVIDENCE.COM services provides agencies with a simple to use, end-to-end solution to manage their data.

The TASER Experience

TASER® is the only brand of its kind with a presence in more than 100 countries and 16,500 law

enforcement agencies. We're committed to providing world-class customer service, support, reliability & training.

AXON Flex Features

POV Video - When it matters most... Show what really happened

Your perspective matters. Point of view video is not only critical in capturing what really happened but also getting that video record accepted as evidence. In a ground breaking US Supreme Court Case (Graham v. Connor 490 U.S. 386 (1989)) the court stated, "The 'reasonableness' of a particular use of force case must be judged from The Perspective of a Reasonable Officer on the Scene."

Retina Low Light - Because most critical events happen at night

With Retina Low-Light we've used advanced imaging technology to increase the camera's light sensitivity, allowing each pixel to capture light comparable to the human retina. We've highly customized this capability to give our users spectacular low light imaging that was designed to match the human eye. Retina Low-Light – there's nothing else like it.

Full Shift Video Buffer- You never know when the action will happen

Reach back 30 seconds into the past and retrieve the events leading up to the event. When your honor is on the line, don't let a 3-second cell phone clip define you. The AXON Flex controller has a 12+ hour battery that allows for full shift video buffer.

AXON Flex is Smartphone Compatible

The AXON Flex is smartphone compatible for wireless viewing. The app is available for both the Apple iOS and Android systems.





ACTUAL OFFICER FOOTAGE

Seamless Integration with Oakley's Flak Jacket Sunglasses





New TASER AXON Body on-officer camera hits the streets

Sponsored by TASER International

It has become pretty-widely accepted that the body-worn video camera will eventually become standard equipment for just about every American police officer.

Law enforcement body-worn video cameras can reduce false complaints against officers and frivolous lawsuits against agencies. The Rialto (Calif.) Police/Cambridge University study <u>shows an even deeper impact</u> as it reduced use of force nearly 60 percent. Their mere presence improves the behavior of all participants during police interactions, and by accurately capturing video from the officer's perspective, supervisors can review incidents and know for certain what really happened.

Although officers and administrators alike are recognizing these benefits — as well as increased officer efficiency, enhanced officer safety, and more effective criminal prosecution — the technology is not yet universally accepted. In nearly any group of officers discussing body-worn video, there will likely be one naysayer.

The top three arguments against the technology seem to be variations of the following:

- 1.) It's too costly to outfit every officer with a video camera
- 2.) It's too cumbersome to wear (on my head or elsewhere)
- 3.) The video quality isn't good enough to be effective in court

Enter, TASER AXON Body

The engineers at <u>TASER International</u> think they've solved all three of those problems — as well as a few others — with the introduction of a new body-worn video camera for law enforcement. Called the <u>TASER AXON Body</u>, the new product now hitting the streets is cost effective (under \$300 per unit), compact (one piece, no wires), and captures high-quality video.

Like its close cousin, the TASER AXON Flex, development of the AXON Body is the result of feedback TASER gathered directly from law enforcement personnel. This is what the folks at TASER call "Voice of Customer" — or VOC — and one can point to a variety of improvements that have been added to new generations of TASER products as a direct result of the company's relationship with both existing and potential customers.

One of the challenges for TASER engineers was putting all of the components found in the original version of the Flex into the same form-factor of just the belt-worn battery pack of the device. The camera and storage elements of the Flex are by no means large, but space had to be made, and somehow they pulled it off beautifully.

One of the key elements to the AXON Body design is the integrated wide-angle lens which somehow doesn't distort the images being recorded. The 130-degree fish-eye

lens is capable of capturing extraordinarily-sharp video (resolution is 640x480) which rivals that which people — read: potential jurors — are accustomed to seeing on their television screens at home.

Generational Influence

When you look at the Flex and the Body side by side, you can see how one generation influenced the creation of the next. Like the Flex, the Body has multiple mounting options: Velcro, belt clip, shirt clip, even an in-car windshield clip. Like the Flex, the Body leverages the benefit of "cloud computing" for storage, management, and secure sharing of video evidence at EVIDENCE.com.

Like the Flex, the Body has a long battery life — as much as 12 hours, according to TASER— and between four and 12 hours of recording time (depending on bitrate setting).

Finally, like the Flex, the Body has the 30-second, pre-event buffer video capture capability. This means the camera can "reach back" and record to the device memory everything that happened within the camera's eye for the 30 seconds before the officer hit the "record" button. The buffer only saves the video portion and not the audio to protect private conversations prior to the start of the recording. This is vital because when an offender decides to create a situation in which some force option is necessary on the part of the officer, the offender's actions are captured.

As is the case with most bystander cell-phone videos, only the officer's actions are seen — not the preliminaries which led up to them.

A Disruptive Move

"I believe this is the first time that a major company in law enforcement has pulled a truly disruptive move like this," said TASER International CEO Rick Smith.

Smith explained that there are really two reasons that police gear tends to be expensive. The first is that police equipment needs to be rugged. Making products that won't easily break is costlier than making cheap, flimsy products. There's only so much you can do to contain that part of the equation.

But "police stuff" is also expensive because for just about every category of gear, the market is fragmented between a certain number of vendors. For example, if all five vendors in a given category of products — let's say it's radios — get an equal share of the market, each company has to base projected profitability (and consequently its product's price) on winning just 20 percent of the available customers.

This is where TASER's strategy is completely disruptive. The bulk of the body-worn video camera market is in the \$900 range per unit (including TASER's own AXON Flex). The AXON Body is one third of the average cost of a competitive product.

"We're selling this marginally above cost. The decision we made here was to not price this to be profitable if we only win a small portion of the market. Let's make the pricing so compelling — selling it near cost — that we're targeting to effectively get a hundred percent of the market."

The strategy is genius. Further, in other market sectors, it's proven to be extremely effective.

"It's a little bit reminiscent of what Amazon has been doing with its Kindle, selling it just

above cost. Customers don't have to use Amazon content on it, but the fact is they will find the Amazon experience on it so compelling that they end up consuming Amazon services."

Smith and his team at TASER think the same will hold true with their new entry into the body-camera space. Officers and agencies won't have to use EVIDENCE.com — video files can be download locally to a PC quite effectively — but the company is betting that the vast majority of users will find the EVIDENCE.com service so much more cost effective and easy to use than building and maintaining their own evidence management system, they'll choose to use EVIDENCE.com.

"They don't have to buy EVIDENCE.com. It's not like they're locked in, or 'stuck with us' — they can use these cameras as a stand-alone product — but we're making the bet that we're going to earn their business. The other piece is that we're making the bet that at this price point we can hit economies of scale in manufacturing that will drive down our cost," Smith added.

See For Yourself

In a sense, the creation of a body-worn version of the AXON Flex was almost inevitable. After all, the "Flex" was thusly named for its flexibility.

When most people think of the AXON Flex, they think of that iconic pair of Oakley glasses. While that's a terrific way of mounting it, the Flex can be worn in a variety of different positions — the brim of a hat, for example, or even the epaulet or collar of a shirt.

Putting all the components into a single, streamlined package that can be snapped to the officer's belt is a logical evolution in the TASER product line.

Supporting Documentation:

Article Supporting Effectiveness of Body-Worn Camera Systems





10-43: Be Advised... with Doug Wyllie, PoliceOne Editor in Chief

Study proves 'cop cameras' cut citizen complaints

Study by TASER International and Calif. PD shows video cameras worn by police officers have a deterrent effect on citizens initiating false and frivolous allegations of police misconduct

A police department implements a new technology solution and citizen complaints plummet by 87.5 percent in the span of just one year.

In the same time period, the PD also reduces use-of-force incidents by 59 percent.

You probably think that's the opening couple of lines to a belated April Fool's joke, but it's not.

Data Supports Anecdotal Evidence

According to <u>a 12-month study</u> conducted by Rialto (Calif.) Police and <u>TASER International</u>, when the agency began experimenting with the TASER AXON Flex body-worn video camera system used in conjunction with EVIDENCE.com they saw a tremendous decline in UOF incidents and complaints against officers.

Rialto Police Chief Tony Farrar, who led the study as part of his graduate degree thesis at Cambridge University, said that his agency's use of body-worn video has "had a dramatic impact on reducing both the controversy associated with complaints and the risk of injuries associated with use-of-force incidents."

I want to leave the UOF stuff aside for the purposes of today's discussion, and focus strictly on the massive reduction in citizen complaints.

The Rialto PD study, which will remain ongoing for several more months, has already yielded hard data which backs up something I've been saying for years: video recorded from the police officer's perspective helps to ensure that officers are not falsely accused of misconduct.

Departments take citizen complaints very seriously, and where wrongdoing by an officer is discovered it is dealt with sternly and swiftly. But the troublesome fact is that in communities across the country, tremendous municipal resources — money, time, and energy — are wasted by false and frivolous complaints lodged against officers.

Captain Joe Fiumara of Lake Havasu (Ariz.) Police Department, <u>told me</u> a few months ago that his department's deployment of AXON Flex and EVIDENCE.com has significantly reduced costs associated

with baseless accusations against his officers.

In one instance, a man brandishing a shotgun claimed to not have been armed when Lake Havasu cops drew their weapons and commanded him to drop his gun.

The man threatened to lodge a complaint, but when the officers informed him that the entire event was recorded on video with AXON, he opted against it.

In another case, a resident claimed Lake Havasu officers had treated her in an abusive manner, but AXON video revealed the officers courteously and properly handling the call, despite the cursing and rants of the very highly-intoxicated complaining resident.

The officers were exonerated without need for further investigation.

I've heard too many stories of agencies where citizen complaints are settled in a "pay to make it go away" policy, regardless of whether or not there is any officer wrongdoing.

Adopting such a 'strategy' is the same thing as submitting to death by a thousand paper cuts.

Emboldened by a department's history of acquiescence, rampant litigiousness takes root, and an avoidable problem quickly snowballs out of control.

Whether your agency is looking to protect against that once-in-a-lifetime, national-news-headlines, multi-million-dollar misconduct lawsuit or a parade of "nickel and dime" complaints, probably the best one-two punch available to you right now is the body-worn camera system used in conjunction with a truly robust digital evidence management solution.

Supporting Documentation:

Police Executive Research Forum "Best Practices" Regarding Body-Worn Cameras (registered to attend September 2013)



CONFERENCE ON "BODY-WORN CAMERAS"

Description:

Hundreds of law enforcement agencies across the nation have piloted or are currently using video cameras that can be attached to officers' clothing, helmets, or sunglasses. "Body-worn cams," as they are called, can be used to record traffic stops, arrests, and critical incidents such as officer-involved shootings.

While there are a number of perceived benefits to the use of body-worn cameras, there is a lack of technical standards and operational standards for protocols and procedures. PERF will work with police chiefs, sheriffs, criminal justice agencies, practitioners, academics and other experts to assess current challenges in addressing these issues and identify promising approaches from the field.

With funding from the COPS Office, PERF will host an executive session in Washington, DC on September 11, 2013 from 8:30 a.m. - 4:30 p.m. to discuss these issues and identify lessons learned.

PERF will utilize the information gathered to recommend promising practices, policy guidelines, and points of consensus among the country's top law enforcement officials to provide law enforcement chief executives and government policymakers with timely and practical recommendations for addressing the body worn camera issues.

Supporting Documentation:

Evidence.com iCloud Storage for TASER Body-Worn Camera Video

Purpose:

Storing body-worn camera video on *Evidence.com* will aid in the efficient and effective use of resources

EVIDENCE.COM TASER.com I LOG IN ! search... Q What is EVIDENCE.COM? Testimonials Videos Cost Savings Cloud Sign Up for Evidence.com Lite Haw To Buy Security Benefits Support () VIDENCE.COM ALL YOUR DIGITAL EVIDENCE IN ONE PLACE Play Video W Tweet 289 Send Link to a friend.



How is it more secure? Why do I need this? Will I save money? COST PER GB OF MANAGED STORAGE Encrypted FileTransfer \$7.28 \$8 Roles & Permissions **IP Restriction** Competitors' Storage Costs \$7 \$6 \$2.40 Dropbox \$5 Storage Costs \$4 \$1.50 \$3 Dual Authentication Security File Authentication EVIDENCE.COM cost with a \$2 Machine Attack Defense storage plan \$1 Cont Backed by the trusted name of TASER. EVIDENCE COM offers one of the Digital evidence management all in one lowest cost per GB of managed storage EVIDENCE.COM protects data on a place. Reducing the time spent on locating and delivering evidence. scale no on-site software can match. solutions available - with unmatched security, reliability and workflow. Learn about the security features How EVIDENCE.COM can help you See how you will save 13

Flash FeedbackHave a minute? Help us improve EVIDENCE.com.



Supporting Documentation:

TASER X26P

Purpose:

Each officer of the Spokane Police Department will be issued and required to carry the TASER X26P



TASER X26P[™]

- 2013 Smart CEW Features enhanced safety and performance with superior quality and reliability.
- "Ultra" Compact Size Small, lightweight and designed for everyday carry.
- The TASER Experience World-class customer service, support, quality and training.

Everything you love about the original TASER X26[™] only better! Produced with superior quality and reliability in mind - the TASER X26P[™] is a familiar piece of law enforcement equipment that's been improved inside and out. These enhanced options and functional capabilities provide a wide variety of benefits to users.

> TASER.COM/X26P ► scan this QR code to learn more



() TASER

FEATURES & BENEFITS



Compact Size

Comparable in size and weight to the original X26 conducted electrical weapon (CEW),



Cross Functional Performance

Compatible with the TASER X2™ CEW's firmware, batteries, TCHD, & Data Download.



Current Metering

Designed to optimize the amount of current delivered.



Performance Power Magazine

Provides 300 more firings than the original X26 DPM.



APPM

Provides an audible alert and shuts off the discharge cycle at 5 seconds even if the trigger is continuously depressed.



Weather Proof

Greater resistance to rain, humidity and other elements.



Self-Diagnostics

Complex analysis of weapon's functional systems.

Internet Updates

Firmware updates over the internet (no need to take units off the streets).

SPECIFICATIONS

- Weather Resistant IPX2-MIL-STD 810F Method 506.4 procedure 1 (Rain & blowing)
- ▶ Housing High Impact Polymer
- Power Activation Ambidextrous Safety Switch
- ▶ Operating Temperature -4° F [-20° C] to 122° F [50° C]
- Storage Temperature -4° F [-20° C] to 122° F [50° C]
- Drop Test 6 Feet
- ► Humidity 80% Non-Condensing
- ▶ Warranty 1 Year from Date of Receipt
- Estimated Useful Life Approximately 5 Years





MPC0161 RFV

TASER.COM/X26P



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FOR RELEASE ON: January 15, 2013 at 07:30 ET

CONTACT: Steve Tuttle

Vice President, Communications TASER International, Inc. Media <u>ONLY</u> Hotline: (480) 444-4000

New TASER X26P Smart Weapon Announced

Revitalized CEW Combines Classic Features with Modernized Technology

SCOTTSDALE, Ariz., January 15, 2013 – <u>TASER International, Inc.</u> (NASDAQ: TASR) today revealed the <u>TASER® X26PTM</u> Conducted Electrical Weapon (CEW) as its newest innovation in the 2013 line of TASER Smart weapons. The single-shot X26P uses the same standard <u>TASER</u> cartridge as the X26 and includes new enhancements and safety features that integrate core elements of the Smart TASER platform from the <u>TASER X2</u>.

"The new X26P will feel familiar to many law enforcement officers, combining the form factor and cartridge from the original X26 with improved ergonomics, weatherproofing, and updated Smart technology features," said CEO and founder <u>Rick Smith</u>. "Smart technology adds enhanced safety and performance, improved data and analytics together with superior quality, reliability and durability."

"The X26P is a result of 10 years of technological advancements and the 'TASER Experience,' incorporating the voice of our customers and their needs with our world class research and support teams. The voice of the customer is critical to our success and based on this feedback we know there is a continuing market need for a cost effective single-shot device similar to the X26 which does not require substantial new training or changing inventories of cartridges. We found in our testing that some of our customers wanted the feature-rich improvements from the X2, but delivered in the X26 form factor. The X26 was our most popular model but had not seen any major change in nearly a decade – until now."

"The TASER X26P reaches back to the basics of what makes TASER great in the hands of officers. Details about every deployment can now be traced back to the unit, making the X26P easier to use and ultimately easier to trust," concluded Smith.

Smart Technology Details

- An all-digital, solid-state architecture using <u>Charge Metering</u> that measures and delivers the amount of electric charge to maximize both safety and effectiveness.
- Trilogy Logs that include Engineering and Event Logs that record every user action such as: safety activation; trigger duration with times, dates, battery life; and a pulse-by-pulse record of the charge output.
- Universal Smart Platform where the following are compatible with both the X26P and X2: TASER CAM HD recorder, high capacity Performance Power Magazine (PPM), Automatic Performance Power Magazine (APPM) with automatic 5-second cycle shutoff, and firmware updates over the internet.

• Like other Smart CEWs, the X26P integrates with <u>EVIDENCE.com</u>, which helps manage and analyze evidence data with best-in-class security and ease-of-use.

Quality and Reliability Improvements

- IPX2 rated weatherproofing to resist rain and humidity.
- The X26P is backed by TASER's world class warranty and customer support.
- A new and improved <u>eXtended Performance Power Magazine</u> (XPPM) that provides an extended grip on the handle and an improved location to store and protect an extra cartridge.

Cost Effective

- Upgraded battery performance using a highly improved power magazine that lasts twice as long as the battery used with the original X26.
- Upgrade and trade-in program available for current customers (www.TASER.com/upgrade)
- The X26P is priced at \$849.95. A variety of power magazine options including TASER CAM HD, PPM, APPM, and XPPM are sold separately to allow agencies to customize their device configuration.

TASER X26P Webcast

A webcast with Rick Smith is scheduled for January 30, 2013, at 4:00 PM EST to learn more about the new Smart TASER platform, as well as the 2013 trade-in/upgrade program.

Please register at: http://info.taser.com/x26p-launch-webcast.html

Links

- TASER X26P Info: <u>http://www.taser.com/products/law-enforcement/taser-x26p</u>
- TASER X26P Images: http://www.taserbranding.com/x26p-press-images/
- TASER X26P Videos: http://www.taserbranding.com/x26p-videos/
- TASER CAM HD: http://www.taser.com/products/on-officer-video/taser-cam-hd
- Press Kit: http://www.taser.com/press-kit
- Twitter: http://www.twitter.com/OfficialTASER
- Facebook: https://www.facebook.com/TASER.International
- TASER Blog: http://blog.taser.com/
- French Website: <u>http://fr.taser.com/</u>
- Brazilian Website: http://br.taser.com/
- New United Kingdom Website: http://uk.taser.com/

About TASER International, Inc.

TASER protects life. TASER Conducted Electrical Weapons (CEWs) have saved more than 100,000 lives from potential death or serious injury. We enable greater transparency with the

industry-leading TASER CAM and AXON*Flex* on-officer video systems. Together with our customers, we are defining the future of smart policing by connecting intelligent devices and sensors with the first secure cloud-based digital evidence management solution for law enforcement: EVIDENCE.com.

Since 1994, more than 255,000 private individuals have relied on TASER technology to protect themselves and their loved ones. Learn more about TASER and its solutions at <u>www.TASER.com</u> and <u>www.EVIDENCE.com</u> or by calling (800) 978-2737.

TASER CAMTM, X2TM, X26TM, X26PTM, TrilogyTM, AXON*FlexTM*, and the 'Circle and Lightning Bolt' logo are trademarks of TASER International, Inc., and TASER[®] is a registered trademark of TASER International, Inc., registered in the U.S. All rights reserved.

Note to Investors

Visit our Investor Relations Safe Harbor Statement at: investor.taser.com/safeHarbor.cfm

For investor relations information please contact Erin Curtis by phone at 480-515-6330 or via email at <u>IR@TASER.com</u>.

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TASER Mission and Basics

Protect Life and Prevent Conflict. Today more than <u>100,000</u> people lives have been saved from potential death or serious injury using TASER[®] devices. The advanced technology that TASER International utilizes in its conducted electrical weapons (CEWs) has been safely deployed more than 3 million times. In addition, more than 100 studies and 350 published abstracts, articles, presentations, and books on CEWs have concluded that TASER[®] technology is among the safest response-to-resistance options available to law enforcement officials and citizens.

How TASER CEW Technology Works

- TASER[®] CEWs use a replaceable cartridge containing compressed nitrogen to deploy two small probes that are attached to the handheld TASER unit with insulated conductive wires.
- The CEWs transmit controlled pulses of electricity carefully designed to stimulate skeletal muscles of the human body without damaging the heart or other vital organs. These pulses affect the sensory and motor functions of the peripheral nervous system and cause incapacitation.
- The current can transmit through clothing up to one inch per probe or two inches cumulative.

TASER Safety

Contrary to popular belief, electrical voltage, per se, does not pose significant risk to humans. Harm from electricity is a result of current which is measured in amperes. A TASER CEW transmits less than one ampere of current (between 2.1 to 3.9 milliampere) — less than the current found in a standard Christmas tree light bulb and much less than the 15 amperes in a 110-volt wall outlet.

- Numerous independent studies by universities, hospitals, physicians, law enforcement agencies, and government entities have concluded that TASER CEWs are generally safe and effective.
- TASER technology has dramatically reduced injuries to both officers and suspects while reducing excessive use-of-force litigation.

100,000 Lives Saved from Death or Serious Injury

Our "Lives Saved Counter" tracks the estimated number of people whose lives have been saved from potential death or serious injury based on a statistical analysis of TASER usage patterns by more than 16,880 agencies using TASER CEWs today. Some key statistics:

- More than half a million TASER CEWs are used by law enforcement officers in 107 countries
- CEWs are deployed more than 900 times each day worldwide
- TASER CEWs have been used in approximately 1,771 million field uses
- A study published in the *Journal of Trauma* found that 5.4% of TASER CEW uses were deemed to have clearly prevented use of lethal force by police
- 5.4% of the 1,771 million field incidents of TASER deployments equates to the number of people saved from serious risk of injury or death (100,000)
- Visit the Lives Saved Counter for the latest data

Important Dates in the History of TASER International

- AIR TASER (which later became TASER International) founded in September 7, 1993
- The first generation TASER[®] brand devices the AIR TASER Model 34000 with Anti-Felon Identification tracking capability-were sold to the public in 1994
- The second generation law enforcement device the ADVANCED TASER M26 and the personal consumer safety device the ADVANCED TASER M18 series began selling in 1999
- The third generation law enforcement device the TASER X26 began selling in 2003 while the technology available to citizens the TASER X26C was available in September 2004

- TASER CAM[™] and TASER CAM HD cameras, which now accounts for the largest number of onofficer cameras with more than 54,000+ in the field began shipping in August 2005
- The fourth generation TASER C2 CEW began shipping to consumers on July 28, 2007
- The TASER[®] Shockwave[™], the first generation of new TASER Remote Area Denial (TRAD[™]) technology became available on March 30, 2009
- The TASER eXtended Range Electronic Projectile (XREP[™]) and the TASER[®] X12[™] Less-Lethal Shotgun (LLS) by Mossberg became available on June 30, 2009
- The multi-shot TASER X3 CEW, the fourth generation law enforcement handheld device began shipping in September 2009
- A TASER[®] AXON[™] on-officer camera records its first officer involved shooting (OIS) at Fort Smith, AR during field trials in October 2009
- TASER AXON and EVIDENCE.COM service won the 2009 Innovation Awards presented by the Cygnus Law Enforcement Group in October 2009
- The two-shot TASER[®] X2[™] CEW, the fourth generation law enforcement handheld device is launched April 2011 and wins the Cygnus Law Enforcement Group's Innovation Award for 2011 in October 2011.
- The new TASER CAM HD for the X2 CEW begins shipping February 2, 2012
- The new TASER Flex on-officer systems announced February 21, 2012

Sources

www.TASER.com, www.EVIDENCE.com, Facebook, LinkedIn, Twitter, and YouTube.

Contact

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TASER and Law Enforcement

The success of TASER International, Inc. can be traced back through its product sales to law enforcement agencies in the United States, which began in 1998. TASER technology revolutionized law enforcement training and practices. The addition of TASER[®] conducted electrical weapons (CEWs) to law enforcement officers' belts has helped dramatically reduce injuries among officers and their suspects.

TASER Law Enforcement By The Numbers

- 16,880 law enforcement agencies in 107 countries deploy TASER CEWs resulting in <u>100,000</u> people lives saved from potential death or serious injury
- 710,000 TASER brand CEWs have been sold to law enforcement and military agencies since February 1998
- TASER CEWs are deployed in law enforcement agencies in 29 out of the 34 largest U.S. cities with populations more than 500,000
- TASER CEWs are found at major law enforcement agencies in in Australia, Brazil, Canada, France, New Zealand, Singapore, South Korea, and the United Kingdom
- TASER CEWs have reduced officer and suspect injuries by as much as 30 to 80 percent in some communities. Nearly all law enforcement agencies that use TASER CEWs see a decrease in injuries.

TASER and Law Enforcement Policy

- Before an officer can carry a TASER device, he/she must undergo extensive product training. TASER[®] training courses are administered by TASER International's Master Instructors who "train-the-trainers" as certified TASER Instructors who then train their own local agency members. The rigorous course is designed to inform and prepare law enforcement officers about the safe operation of TASER CEWs.
- TASER CEWs operate as computers collecting and storing all relevant information after each use to provide increased transparency and public accountability unlike any other law enforcement tool today. This provides unmatched officer accountability measures. Additionally, the TASER[®] CAM[™] and TASER CAM HD[™] audio-visual recorder accessory provides enhanced evidence and accountability.
- TASER International manufacturers the TASER <u>AXON Flex</u>[™] on-officer camera an on-officer network computer that combines audio-video capture capabilities with network communications. The TASER AXON provides full-motion video and audio recording from the officer's perspective and the ability to easily store and retrieve this information securely via <u>EVIDENCE.com</u> service.
- FLEX™ on-officer cameras improve the behavior of all parties during police interactions, reduce false complaints and lawsuits, and enhance public trust and create safer communities at a lower cost.



TASER at Retail

TASER International founded its company with sales to consumers beginning in 1994 with the Sharper Image as one of its first large scale accounts. Since then, the TASER[®] C2[™], a consumer model conducted electrical weapon (CEW) launched to the marketplace in 2007. The TASER C2 was first sold through independent dealers and is available online at <u>www.iTASER.com</u>.

TASER C2 CEW in Brief

- The TASER C2 Neuro-Muscular Incapacitation (NMI) technology is similar to the law enforcement model TASER devices. NMI technology temporarily overrides the nervous system, taking over muscular control, but allows for immediate recovery.
- Differences between the consumer and law enforcement TASER devices are the length of the NMI cycle, the cycle durations, and the size of the device. The C2 cycles for 30 seconds, allowing its user time to escape from a dangerous situation. This is opposed to the five-second cycle on law enforcement models, which gives officers the appropriate opportunity to apprehend and control suspects.
- More than 255,000 consumer TASER CEWs have been sold since 1994
- Available to residents in most states, the TASER C2 is prohibited for sale to consumers in DC, HI, MA, NY, NJ, and RI, and certain cities and counties. CT, IL, MI, and WI sales are legal with restrictions.
- Each TASER C2 cartridge is equipped with the Anti-Felon Identification (AFID) system which
 releases dozens of confetti-sized markers upon discharge of a cartridge. AFIDs contain serial
 numbers that track back to the original purchaser of the cartridge, providing accountability with
 the proper use of this safety system.

For accountability and safety reasons, all end-users purchasing directly from TASER must pass an extensive background check before TASER ships an enabled device.

For more information about TASER CEWs for consumers visit: <u>www.iTASER.com</u> or contact 800-978-2737.



TASER CEW Safety and Medical Studies

Independent medical and scientific experts have determined TASER devices to be a safer response to resistance option compared to traditional use-of-force tools. Field studies have reaffirmed the life-saving value of TASER devices. Independent studies - including an extensive, multi-million dollar three-year study conducted by the British Associations of Chief Police Officers (ACPO) in consultation with the British Police Scientific Development Branch (PSDB), the British Defense Science and Technology Laboratory (DSTL) and the British Defence Scientific Advisory Council Sub-committee on the Medical Implications of Less-lethal Weapons (DOMILL), as well as a U.S. Department of Defense (DOD) study involving approximately 20 medical and research doctors from a dozen academic, government and private institutions - have reaffirmed the overall safety and effectiveness of TASER's life-saving technology.

A <u>US Department of Justice (DOJ) study</u> conducted by Wake Forest University School of Medicine showed that 99.75% of 1,201 suspects who encountered a TASER CEW as a means of force received only bruises and scrapes or were uninjured. For more comprehensive research information, please visit: http://www.taser.com/research/Pages/default.aspx.

In a 2010 US Department of Justice report entitled, <u>A Multi-Method Evaluation of Police Use of Force</u> Outcomes: Final Report to the National Institute of Justice, the following issues were concluded:

- "Across 12 agencies and more than 24,000 use of force cases, the odds of a suspect being injured decreased by almost 60 percent when a CED was used."
- "Controlling for other types of force and resistance, the use of CEDs significantly reduced the probability of injuries."
- "In juxtaposition to these observations, our findings consistently show a significant reduction in the risk of injury to suspects when CEDs or OC spray is used."
- "In very rare cases, people have died after being pepper sprayed or shocked with a Taser, although no clear evidence exists that the weapons themselves caused the deaths."

DOJ Findings: A five-year study by the National Institute of Justice expert panel of 14 medical and research doctors included the following conclusions:

- Current research does not support a substantially increased risk of cardiac arrhythmia in field situations, even if the CED darts strike the front of the chest
- There is currently no medical evidence that CEDs pose a significant risk for induced cardiac dysrhythmia in humans when deployed reasonably
- All evidence suggests that the use of CEDs carries with it a risk as low as or lower than most alternatives
- CED use is associated with a significantly lower risk of injury than physical force, so it should be considered as an alternative in situations that would otherwise result in the application of physical force
- The full DOJ report is available at: <u>https://www.ncjrs.gov/pdffiles1/nij/233432.pdf</u>

PERSPECTIVE: U.S. law enforcement spends approximately \$2.5 billion per year on litigation.

- Law enforcement is an inherently high-risk endeavor, and TASER devices are used within some
 of the most high-risk segments of the law enforcement field. There will inevitably be controversy
 about law enforcement use of force and hence about CEWs.
- TASER CEW's are deployed by more than 90% of the U.S. law enforcement agencies, and they are the most frequently used weapons in the law enforcement arsenal by a significant margin

FACT: TASER CEWs Significantly Reduce Litigation Claims. A multi-year study by the Michigan Municipal Risk Management Authority found that excessive force claims dropped by more than 95% in the years following the introduction of TASER CEWs.

Avoid Controversial Uses: Although recent studies do not find evidence of substantial risk of cardiac arrhythmias with CEW use, TASER advises users to avoid discharges directly to the chest when practicable. Similarly, it is advisable to avoid prolonged discharges of greater than 15 seconds, and consider transitioning to other force options if application of the CEW is not effective.

How to Further Reduce Risk: Risk is an unfortunate and inherent reality of law enforcement . Appropriate use of TASER CEWs significantly reduces risk of physical injury or death and the risk of associated use-of-force litigation. To further reduce legal risks, TASER recommends that agencies review their use-of-force policies and evaluate them against the guidelines for TASER CEW use published by the International Association of Chiefs of Police (IACP) and the Police Executive Research Forum (PERF) at the links below:

- PERF: http://www.policeforum.org/library/use-of-force/ECWguidelines2011.pdf
- IACP: http://www.theiacp.org/LinkClick.aspx?fileticket=Jk7o%2b4Ai2hE%3d&tabid=87



TASER CEW: Deep Dive

TASER International provides safer response to resistance options for the law enforcement, military, private security, and consumer markets. TASER[®] technology protects life and prevents conflict. More than <u>100,000</u> lives have been saved from potential death or serious injury using TASER conducted electrical weapons (CEWs). Numerous independent medical studies conclude that TASER CEWs are among the safest and most effective use-of-force options available. TASER CEWs dramatically reduce injury rates to suspects and officers, thereby reducing liability risk, improving officer safety and increasing community security. TASER technology is changing the world with safer, more effective tools for accountable citizens, law enforcement, military, corrections and private security.

TASER devices use proprietary technology to quickly incapacitate dangerous, combative or high-risk subjects who pose a risk to law enforcement officers, innocent citizens or themselves. TASER handheld CEWs utilize compressed nitrogen to project two small probes up to 15, 21, 25 and 35 feet. These probes are connected to the TASER system by insulated wire. An electrical signal is transmitted through the wires to where the probes make contact with the body or clothing, resulting in an immediate loss of the person's neuromuscular control and the ability to perform coordinated action for the duration of the impulse while allowing an instant recovery once the cycle ceases. This effect is called Neuro Muscular lncapacitation (NMI) that temporarily overrides the nervous system, taking over muscular control. NMI technology temporarily incapacitates even the toughest individuals with minimal risk of injury.

TASER International markets the following CEWs: TASER[®] X26, TASER[®] X2[™], TASER X26^C Citizen Defense System, and the TASER[®] C2 Personal Protector. It also markets the newly introduced AXON Flex[™] on officer camera system — an on-officer camera that records from the officer's perspective and provides the ability to easily store and retrieve this information securely via <u>www.EVIDENCE.com</u> digital evidence storage service.

Quick Stats

- More than 16,880 law enforcement, correctional, security, and military agencies in 107 countries deploy TASER devices with more than <u>100,000</u> lives saved from potential death or serious injury 710,000+ TASER brand devices have been sold to law enforcement since September 30, 2010
- 255,000+ TASER brand devices have been sold to citizens since 1994 (legal in 44 states)
- TASER CEWs for citizens are prohibited in DC, HI, MA, NY, NJ, and RI, and certain cities and counties. CT, IL, MI, and WI sales are legal with restrictions.
- TASER International's headquarters and manufacturing facility is located in Scottsdale, AZ and was founded in September 1993
- TASER International has traded on NASDAQ under the trading symbol TASR since 2001

Range: Handheld TASER CEWs can be deployed from 0 to 35 feet (0 to 10.67 meters). Depending on the TASER cartridge, the cartridge range varies from 15-35 feet for law enforcement and military, 15 feet only for citizens. TASER[®] cartridges are available in cartridges with ranges of 15, 21, 25 and 35 feet.

Method of Incapacitation: TASER CEWs utilize a state-of-the-art Neuro Muscular Incapacitation (NMI) technology that temporarily overrides the nervous system, taking over muscular control. NMI technology temporarily debilitates even the toughest individuals with minimal risk of injury. Existing stun gun systems stimulate sensory neurons and can be over-ridden by a focused individual. TASER brand devices directly stimulate motor nerve tissue, causing incapacitation regardless of mental focus, training, size, or drug induced dementia.

Accountability with Dataport Systems:

• X3 and X2 Trilogy[™] Log systems with improved sensors – greatly enhances the usage data analytics over prior generation dataports with a variety of sensors that record three data logs:

- Event Log records common event data such as safety on/off, trigger presses, Warning Arcs, cartridge deployments as well as firmware updates, and time updates;
- Pulse Log stores the electric characteristics of every pulse emitted from the X3 and X2. It can determine if the charge was delivered to a subject, arced into the air as a warning, if probes missed the target, or even if the wires broke or some other factor interrupted charge delivery to the subject;
- **Engineering Log** monitors the performance of every key electrical sub-system within the X3 and X2 during events and at rest and provides alerts to the user if any sub-system is not performing properly and if maintenance is advisable.
- The **X26** stores time, date, duration, temperature, and energy cell status of most recent 2,000 firings. Data is accessed via USB into encrypted secure ".x26" file format

Power Supplies:

- X2: Performance Power Magazine (PPM), three CR-123 lithium energy cells
- X3: Enhanced Power Magazine (EPM)/four CR-123 lithium energy cells
- X26: Digital Power Magazine (DPM)/two CR-123 lithium energy cells and digital memory
- C2: C2 Lithium Power Magazine lithium energy cells and digital memory



TASER Product Q&A

What is a TASER brand CEW?

A TASER CEW is an conducted electrical weapon that is a safer use-of-force option for law enforcement, private security, military, and consumer personal safety. TASER CEWs transmit controlled pulses of electricity that are carefully designed to stimulate the skeletal muscles of the human body without affecting the heart or other vital organs preventing a suspect's coordinated actions.

TASER technology has revolutionized policing by providing a standoff tool. The advantage is that TASER technology can truly immobilize a suspect who can overcome pain, might be on dangerous drugs like cocaine or methamphetamine, or even emotionally disturbed, whereas other use-of-force tools relay upon pain compliance. The TASER system doesn't use pain compliance, but immediately stops any coordinated action by the subject only while the TASER system's current is flowing. Recovery is instantaneous, so the TASER system only provides a window of opportunity to temporarily stop someone's dangerous actions.



TASER X26

TASER X2

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The success of TASER programs are dramatic reductions in injuries to both suspects and law enforcement officers. No other law enforcement tool has undergone as extensive international scientific testing and scrutiny as TASER technology. Although, no use-of-force device is risk free including TASER technology, medical experts and recent independent comprehensive reports from the governments of Canada, the United Kingdom and the U.S. have concluded that TASER systems are among the safer use-of-force alternatives to subdue violent individuals who could harm law enforcement officers, innocent citizens or themselves.

How does a TASER handheld CEW work?

TASER handheld CEWs utilize compressed nitrogen to project two small probes up to various ranges of 15, 21, 25 or 35 feet (only 15 foot cartridges are sold to citizens) at a speed of over 160 feet per second. These probes are connected to the TASER CEW by insulated wire. An electrical signal is transmitted through the wires to where the probes make contact with the body or clothing, resulting in an immediate loss of the person's neuromuscular control and the ability to perform coordinated action for the duration of the impulse.

What about the electrical current and high voltage?

TASER CEWs transmit controlled pulses of electricity that are carefully designed to stimulate the skeletal muscles of the human body without affecting the heart or other vital organs preventing a suspect's coordinated actions.

While the TASER CEW produces 50,000 volts to create a spark that will transmit electricity through 2 inches of clothing, **only** short pulses of 400 volts actually enter the body. The average voltage during a five-second application is less than one volt. When compared to a static shock from a doorknob (35,000 to 100,000 volts) or a Van de Graff Generator (1,000,000 to 20,000,000 volts), a common display in science museums which makes your hair stand on end, 400 volts with extremely low current is equally as harmless.

current of a TASER CEW is safe.



1,000,000+ volts Van de Graaff generator

100 V Wall Outlet 16.0 A





When discussing how electricity will affect the human body, voltage becomes irrelevant without a discussion of the corresponding amount of electric current - measured in amperes. To say 400 volts is dangerous is inaccurate without also talking about the current associated with that charge. Voltage, even high voltage, alone does not harm or kill.

The average current delivered by an X26 CEW is 0.0021 amperes or 2.1 milliamperes. Compare this with the average Christmas tree light bulb which has approximately 1 ampere of current, or the 16 amps from a typical 110-volt wall socket; it should become readily apparent that the extremely low

To further put this into perspective, the "power plant" of a TASER CEW is a set of two Duracell[®] lithium camera batteries which can produce approximately 100,000 TASER electrical pulses, but only approximately 100 camera flashes.

Why use a TASER CEW?

TASER CEWs save lives and are generically known as conducted electrical weapons. TASER brand CEWs are among the safer use-of-force options available and today more than <u>100,000</u> people lives have

been saved from potential death or serious injury using TASER[®] devices. TASER systems use proprietary technology to immediately incapacitate dangerous, combative or high-risk individuals who pose a risk to law enforcement officers, innocent citizens or themselves. TASER CEWs have been proven statistically to dramatically reduce injury rates to suspects and officers and increase officer safety and community security compared to any other use of force option.

Are TASER CEWs safe?

TASER technology has been around since the 1970s and has been the subject of more than 100 studies by scores of universities, hospitals, physicians, law enforcement agencies, military panels, as well as Independent testing by many government entities throughout the world. These studies have found the patented TASER technology, which transform a low-energy power supply into an energy pulse that mimics the very electrical wave form generated by our brains to control skeletal muscles and which renders a person incapacitated, to be generally safe and effective.

TASER technology is not risk free, but Independent medical and scientific experts have determined that when used properly, TASER technology is among the most effective use-of-force interventions available to law enforcement. No other law enforcement tool has undergone as extensive international scientific testing and scrutiny as TASER technology.

The success of TASER programs has been in reducing injuries to officers and suspects compared to traditional pain compliance tools such as fists, tackles, baton strikes, and impact weapons. Statistically speaking, TASER has not had a report of a law enforcement agency with a TASER program in which injuries increased to officers or suspects. This fact was recently backed up by a recent US Department of Justice study conducted by Wake Forest University Hospital that showed that 99.75% of 1201 criminal suspects who have encountered a TASER CEW as a means of force received no significant injuries.

Numerous recent independent studies - including an extensive, multi-million dollar three-year study conducted by the United Kingdom's Association of Chief Police Officers (ACPO) in consultation with the British Home Office Scientific Development Branch (HOSDB), the British Defence Science and Technology Laboratory (DSTL) and the British Defence Scientific Advisory Council Sub-committee on the Medical Implications of Less-lethal Weapons (DOMILL), as well as a U.S. Department of Defense (DOD) study involving approximately 20 medical and research doctors from academic, government and private institutions - have reaffirmed the life-saving value of TASER technology.

A <u>US Department of Justice (DOJ) study</u> conducted by Wake Forest University School of Medicine showed that 99.75% of 1,201 suspects who encountered a TASER CEW as a means of force received only bruises and scrapes or were uninjured.

Another <u>DOJ</u> study published in May 2011 to the National Institute of Justice, by an expert panel of 14 medical and research doctors included the following conclusions:

- Current research does not support a substantially increased risk of cardiac arrhythmia in field situations, even if the CED darts strike the front of the chest.
- There is currently no medical evidence that CEDs pose a significant risk for induced cardiac dysrhythmia in humans when deployed reasonably.
- All evidence suggests that the use of CEDs carries with it a risk as low as or lower than most alternatives.
- CED use is associated with a significantly lower risk of injury than physical force, so it should be considered as an alternative in situations that would otherwise result in the application of physical force.

In a 2010 US Department of Justice report entitled, <u>A Multi-Method Evaluation of Police Use of Force</u> <u>Outcomes: Final Report to the National Institute of Justice</u>, the following issues were concluded:

- "Across 12 agencies and more than 24,000 use of force cases, the odds of a suspect being injured decreased by almost 60 percent when a CED was used."
- "Controlling for other types of force and resistance, the use of CEDs significantly reduced the probability of injuries."
- "In very rare cases, people have died after being pepper sprayed or shocked with a Taser, although no clear evidence exists that the weapons themselves caused the deaths."

For more information on TASER safety, or to download copies of independent medical studies, please visit http://www.taser.com/research-and-safety/science-and-medical.

Why TASER Technology?

CREDIBILITY: TASER[®] technology dramatically reduces injuries to both suspects and law enforcement officers. More than 16,880 law enforcement agencies worldwide deploy TASER devices -- revolutionizing law enforcement by allowing officers to temporarily incapacitate subjects up to 35 feet away.

- SCIENTIFICALLY RESEARCHED: No other less-lethal law enforcement tool has undergone as much extensive, international scientific testing and scrutiny as TASER technology. Although no use of force device is risk free, including TASER technology, medical experts and independent comprehensive reports from the governments of Canada, the United Kingdom and the U.S. have concluded that TASER systems are among the safer use-of-force alternatives to subdue violent individuals who could harm law enforcement officers, innocent citizens or themselves. When used properly, medical and law enforcement experts have concluded that TASER technology is among the most effective use-of-force intervention device available to law enforcement officers to halt violent situations that pose a safety risk to an officer, suspect or innocent citizens.
- TASER technology is one piece of the law enforcement puzzle but its high rate of success in actual field uses is unmatched by any other law enforcement response to resistance tool.

SAFE: Whereas traditional less-lethal law enforcement tools rely upon pain compliance, the advantage of TASER technology is that it can truly incapacitate a suspect who can overcome pain or may not respond to physical pain due to drug or alcohol use or due to emotional distress.

 TASER systems do not rely upon pain compliance, but instead provide Neuro Muscular Incapacitation (NMI) that immediately stops any coordinated movement by the subject. This provides a window of opportunity to stop or apprehend a potentially dangerous individual while providing instantaneous recovery. With TASER CEWs, dramatic decreases in suspect and officer injuries have occurred, particularly at law enforcement agencies that deploy TASER technology to the majority of its patrol officers. Several law enforcement agency insurance companies/risk management groups actually reimburse law enforcement agencies with funding when TASER devices are purchased based upon the actuarial data of field results of TASER deployments.

How often is TASER Technology Deployment Used?

• CEWs are deployed more than 900 times each day worldwide by approximately 16,880 law enforcement and military agencies in 107 countries with an astounding number of use:

Field Use/Suspect Applications:	1,807,000± 2%
Training/Voluntary Applications:	<u> 1,351,891 ± 7%</u>
Total:	3.15 million+

What does TASER International recommend for "use-of-force" guidelines?

More than 16,880 law enforcement agencies world-wide deploy TASER CEWs with approximately most of these agencies adopting use-of-force policies at the same level as pepper spray. It's the responsibility of each agency to set their own policy based upon their community standards and the totality of the circumstances for any use-of-force, including the deployment of TASER CEWs.

TASER CEWs have saved thousands of lives and have greatly reduced the injuries that officers and suspects would typically encounter when using hands-on techniques like punches, kicks, and batons to stop suspects from hurting themselves, the public or other officers. CEWs do not replace firearms and are designed for use in de-escalating dangerous incidents to prevent the situation from developing to the point where lethal force could occur.

The success for any use-of-force policy, including the deployment of TASER CEWs, depends upon good training, strong accountability and governance. Local communities, together with law enforcement agencies and third party advocates have come together in countless communities to develop community standards and to provide court tested use-of-force policies.

When used properly, medical and law enforcement experts have concluded that TASER technology is among the most effective response to resistance interventions available to law enforcement officers to halt violent situations that pose a safety risk to an officer, suspect or innocent citizens.

What about accountability and the TASER Dataport system?

TASER International has taken it upon itself to implement numerous measures to ensure that its products are among the safest and most accountable, response to resistance tools in the world. TASER CEWs provide unprecedented accountability through its built-in Dataport system. The Dataport is an on-board computer that records the date, time and duration of every trigger pull for its handheld CEWs. The newer TASER X3 and TASER X2 have more sophisticated logging systems called Trilogy™ Log systems. This includes improved sensors that greatly enhance the usage data analytics over prior generation dataports with a variety of sensors that record three data logs. No other use-of-force option provides this level of accountability through documentation and deployment data.

	Serial Number of X26	XCE-000056	Mode	X26		
	Date of Download	04/04/07 09:05:29				
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Sample Dataport Download

What is the AFID program?

The AFID program was implemented for the accountability of any user for the handheld CEWs. Each TASER cartridge is serialized and registered to its user and includes a tracking program that disperses dozens of confetti-sized film at the scene under our Anti-Felon Identification (AFID) program. AFIDs are also included in all citizen models.



AFID TAGS

For citizens to purchase an CEW it comes down three factors: Registration, verification and tracking.

X26C: At the time of purchase, TASER International gathers extensive personal information to verify the identity and background of the prospective buyer with the understanding that we will not release the information and it will be kept confidential. This data maintains the integrity of our Anti-Felon Identification (AFID) system as private, unless a TASER CEW is used in the commission of a crime in which we can trace the identity of the unit and the owner of the CEW through the confetti that is deployment any time our TASER CEWs are deployed. Online purchases of TASER X26C units require a valid Social Security Number in which a third party vendor verifies this information and reviews for felonies, terrorist watch lists and proof of age. The CEW can then be purchased via credit card which is also verified.



Size of TASER X26C v. Cellphone

TASER X26C CEW

C2: Each TASER C2 cartridge is equipped with the Anti-Felon Identification (AFID) system which
releases dozens of confetti-sized markers upon discharge of a cartridge. AFIDs contain serial
numbers that track back to the original purchaser of the cartridge, providing accountability with
the proper use of this safety system.

For accountability and safety reasons, the user must register the TASER C2 by calling either a toll-free number or logging on to a secure web site before. When a TASER C2 is sold on our web site, an extensive background check is quickly conducted to verify that the user qualifies to own a TASER CEW.



The C2 Personal Protector is Available in Six Colors

How does the TASER CAM[™] audio/recording system work for improving accountability?

The TASER CAM[™] and TASER CAM[™] HD are integrated video system accessories that records more than 90 minutes of audio and video during an X26 and X2 deployments to provide enhanced accountability above and beyond the TASER Dataport system.

The TASER CAM systems activates whenever the safety is placed in the "off" position and stops when the system is stopped by placing the safety to the "on" position. Not only is an officer's report corroborated by its internal audit system, but the event is on video. Imagine seeing the suspect's behavior and hearing the officer's verbal commands.



TASER X2 with TASER CAM HD recorder



TASER CAM HD Recorder

The TASER CAM and TASER CAM HD system activate whenever the safety is placed in the "off" position and stops when the system is stopped by placing the safety to the "on" position. Now, an officer's report not only is corroborated by its internal audit system, but it captures the event on video. Imagine seeing the suspect's behavior and hearing the officer's verbal commands. We are all about effectiveness, accountability and safety. As of September 30, 2012, the TASER CAM systems are the largest number of on-officer cameras in use with more than 55,000 in the field.

What is Smart Technology?

Smart technology adds enhanced safety and performance, improved data and analytics together with superior quality and durability. Smart technology includes:

- An all-digital, solid-state architecture using <u>Charge Metering</u> that measures and accurately delivers the precise amount of electric charge to maximize both safety and effectiveness
- Trilogy Logs that include engineering and event logs that record every user action such as: safety activation, trigger duration with times, dates, battery life, and a pulse-by-pulse record of the charge output.
- Universal Smart Platform TASER CAM HD recorder compatible, high capacity Performance Power Magazine (PPM), Audible Performance Power Magazine (APPM) with automatic 5-second cycle shutoff performance and firmware updates over the internet all of which are compatible with the X26P and the X2. This allows the cross functionality with other Smart CEWs so the X26P and X2 can share battery packs and download cables.
- Smart CEWs can integrate with EVIDENCE.com, which helps manage and analyze evidence data using the latest in secure digital evidence storage

What is the TASER X2?

The X2 with Smart technology can deploy two cartridges semi-automatically and simultaneously incapacitate two subjects. The two-shot system allows the user to recover from a miss and also gain voluntary compliance with its "Warning Arc" even while loaded. Its dual lasers greatly assist in adjusting to the preferred targeting zones by indicating where the bottom will hit. Current Metering measures and accurately delivers the precise amount of current to maximize both safety and effectiveness. Its enhanced sensors and Trilogy™ Log record TASER discharge electrical characteristics of each and every pulse. Its rated IPX2 weatherproofing better resists rain and humidity more than previous CEW models.



TASER X2 CEW

What is the TASER X26P?

The X26P is TASER's newest innovation in the 2013 line of TASER Smart weapons. The single-shot X26P uses the standard <u>TASER cartridge</u> as used in the X26 and includes new enhancements and safety features that integrate core elements of the Smart TASER platform from the X2. The advanced technological Smart properties include improved data analytics and accountability, full color high-definition <u>TASER CAM</u> recorder compatibility and the latest firmware installations. The X26P also introduces improved durability, water resistance and increased battery capacity.



TASER X26P CEW

What is the TASER X3?

The X3 provides the ability to deploy three cartridges semiautomatically and simultaneously incapacitate up to three subjects. The multi-shot system allows the user to recover from a miss and also gain voluntary compliance with its "Warning Arc" even while loaded. Its dual lasers greatly assist in adjusting to preferred targeting zones by indicating where the bottom will hit. The X3 has enhanced its safety characteristics with Pulse Calibration System The PCS constantly monitors and calibrates (PCS). electrical output to deliver a Precision Shaped Pulse™ that provides more consistent effects on the target and improved safety characteristics. Its enhanced sensors and Trilogy™ Log record TASER discharge electrical characteristics of each and every pulse.



What is the X3W Wildlife CEW?

The TASER X3W Wildlife CEW is a modified version of the X3 that is optimized for wildlife management professionals. Its Bright red frame highlights this specialized device in an environmentally hardened system designed to survive sea spray, rain, dust, electrostatic discharge and even short-term water submersion. Its uses The Pulse Calibration System (PCS) to provide a consistent charge despite higher resistance from fur or hide. It includes an adjustable discharge times to allow for hands free use procedures.



While, the focus of our core technology is protecting human life in the law enforcement and in civilian

markets, through a multi-year research partnership with the Alaska Department of Fish and Game (ADFG), our core technology may offer wildlife professionals a tool to protect both human and animal life during wildlife management activities.

Our research partnership suggests that our core technology may be useful for animal hazing*, aversive conditioning, brief capture, disentanglements, injury assessment, and human safety. While TASER International believes that the key to decreasing humanwildlife conflict is a broad, conservation-based strategy focusing on human behavior modification, we believe that our devices offer a great tool to supplement current wildlife management tools.

TASER X3W CEW

Through our research partnership with ADFG, our devices have been used on Alaskan Brown Bear and Alaskan Moose in both research and field use. The research and field use indicates that the devices are safe and effective to use on these animals. There have also been anecdotal reports of field use on white tail deer and Arizona javelina with no reports of morbidity or mortality. TASER International is actively involved in ongoing research.

TASER International is committed to protecting both human and animal life. TASER's wildlife devices are not intended for sale to the general public and the company has developed and recommends completion of their wildlife-specific training program for all agencies and non-governmental organizations purchasing

the devices. As an extra level of commitment, TASER International will offer wildlife specialists to consult with your agency to comprehensively review your wildlife mitigation strategies. TASER International also will donate \$25 per device sold to The Wildlife Society to support our commitment to conserve.

*Hazing: An activity, or series of activities, that is conducted in an attempt to change the behaviors of habituated animals or to establish or maintain a healthy wariness of humans. (*See e.g.*, Colorado Division of Wildlife. *Hazing Guidelines*. Area 5 November 4 2009).

The TASER X3W Wildlife CEW is now sold though the Animal Care Equipment and Services (ACES). Visit the ACES website for more information: <u>www.animal-care.com</u>

Use of Force

Supporting Documentation:

Monadnock Collapsible Baton

Purpose:

Each officer of the Spokane Police Department will be issued and required to carry the Monadnock Collapsible Baton



Monadnock® Batons and Training Equipment

The Monadnock® brand has been synonymous with quality as the leading supplier of batons, restraints and training aids, and the preferred choice of law enforcement professionals the world over for more than 50 years. Now under the Safariland umbrella, we bring our collective heritage and expertise to focus on our primary objective, providing the highest quality and most innovative products to the men and women who depend on them everyday. More law enforcement officers choose to carry American-made Monadnock® batons over other competing brands. There is a reason. We build it better.



AutoLock®

The AutoLock® was developed through cutting-edge engineering that combined the advantages of friction lock and positive lock technology. The technologically advanced, patented AutoLock® baton is ready at hand when you need it and out of the way when you don't. It's easy to expand, and when it's time to close, simply push the button in the end cap. No need to look for a hard surface to collapse the baton.

Strength You Can Count On:

The high-tech and patented cam ball bearing and locking mechanism, once locked, ensures that the baton will stay open while performing striking and jabbing techniques.

- . The AutoLock's patented locking mechanism ensures the baton will stay locked open while striking, blocking or jabbing
- Closes with a push of a button—no need to strike the baton on
- · Open passively or in a high-profile manner
- · Rotating shafts help maintain control of the batons during a
- · Choose from a variety of tips and grips
- Limited Lifetime Guarantee
- Made in the USA

Black Chrome **Bright Nickel**

Lengths

16" (40.64cm); 18" (45.72cm); 21" (53.34cm); 22 (55.88cm); 26" (66,04cm)

Tips

Standard Steel Tip - Ideal for opening baton in a high profile manner and gaining the psychological advantage over subject

Safety Tip* - Urethane material eliminates sharp edges and decreases possibility of subject injury

Power Safety Tip* - Engineered to turn a subject's pockets inside out, reducing the risk of getting stuck with sharp objects

Tactical Targeting Tip - Clearly tracks baton tip during demonstrations, practice and ? or on duty, Retro fit on any AutoLock® baton with a Power Safety Tip™ Add 3xT to any Power Safety Tip" Cat. # to add the 3xT tip

DAVID CONDON MAYOR

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CITY OF SPOKANE - PURCHASING 808 W. Spokane Falls Blvd. Spokane, Washington 99201-3316 (509) 625-6400 FAX (509) 625-6413

REQUEST FOR QUOTES

City of Spokane, Washington

RFQ NUMBER: #593-13

DESCRIPTION: POLICE BATONS

DUE DATE: WEDNESDAY, JULY 31, 2013 No later than 3:00 PM

> City of Spokane - Purchasing 4TH Floor, City Hall 808 W. Spokane Falls Blvd. Spokane WA 99201-3316

QUOTE SUBMITTED BY: COMPANY L.E.E. MAILING ADDRESS 6902 SIXTH AVE JA 98406 TACOMA 1 PHYSICAL ADDRESS 6902 SIXTH AVE 98406 TACOMA AL C PHONE NUMBER FAX NUMBER E-MAIL ADORESS SEQUICE EEDWAY.COM 0 AA. SIGNATURE:

Signature here will confirm compliance with all instructions, terms, and conditions of this Request for Quotes.

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Connie Wahl C.P.M., CPPB Purchasing

PART I. PRICING AND BIDDER INFORMATION

SECTION I. PRICING

TO:

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CITY OF SPOKANE – PURCHASING

QUOTE NAME: POLICE BATONS

QUOTE NO: 593-13

The purpose of this Request for Quote is to invite quotes to provide the City of Spokane Police Department with annual supply of Police Batons. It is anticipated that an initial order will be placed and then additional orders will be placed as needed during the contract term.

LINE	QUANTITY (Estimate of Annual Quantity)	DESCRIPTION	UNIT PRICE	TOTAL
#1	243 EA	Baton, Autolock, Black Chrome Finish, Foam Grip with Safety Tip, 21", Monadnock #9120	78.99	19194.57
#2	82 EA	Baton, Autolock, Black Chrome Finish, Foam Grip with Power Safety Tip, 18", Monadnock #9170	81.56	6667,92
#3	214 EA	Baton Holder, Elite Expandable, Black Basketweave Finish, Bianchi Accumold #7912-24022	15.56	3329.84
#4	57 EA	Baton Holder, Front Draw Autolock 360, for 21" Baton, Black Polycarbonate Basketweave Finish, Monadnock #3630	17.44	99408
#5	54 EA	Baton Holder, Front Draw Autolock 360, for 18" Baton, Black Polycarbonate Basketweave Finish, Monadnock #3642	1724	941.76
		QUOTE SUBTOTAL		31148.17
V		WASHINGTON STATE SALES TAX (8.7%)		2709.89
		TOTAL QUOTE		33858.06

Payment Terms: Net 30 days

F.O.B. Delivery Point: 2302 N. Waterworks, Spokane WA 99212

SIGNATURE ON COVER PAGE ACKNOWLEDGES AGREEMENT TO FURNISH THE ABOVE ITEMS AT THE PRICES STATED, SUBJECT TO THE CONDITIONS AND REQUIREMENTS OF THIS QUOTE.

RFQ #593-13 7/18/2013

RFQ #593-13 7/18/2013

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SECTION II. BIDDER INFORMATION (LEEDWAY, LLC)
Company Name: LAW ENFORCEMENT EQUIPMENT DISTILIBUTION (Type or Print)
By: DOUGLAS R. WARNER Title: OWNER/MENDER (Type or Print)
Please indicate person to be contacted by the City concerning items(s) guoted:

Name: 06-210Alo Phone:

BUSINESS REGISTRATION REQUIREMENT

Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Bidder shall be responsible for contacting the State of Washington Business License Services at <u>http://bls.dor.wa.gov</u> or 1-800-451-7985 to obtain a business registration. If the Bidder does not believe it is required to obtain a business registration, it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

CITY OF SPOKANE BUSINESS REGISTRATION NUMBER:_

ORGANIZATION

Proposal of an () individual () partnership (corporation organized and existing under the Laws of the State of

ORIGINAL PRODUCT/EQUIPMENT MANUFACTURER

State name(s) and address(es) of Original Equipment Manufacturer (OEM) and distributors (if applicable) to be used in the production and delivery of your product.

NAME 3120 E. MISSION BLVD ONTADO CA91761 BIANCH

MUNADNOCK 126NHROUTE 12N FITZWILLIAMNH 03497

MINORITY BUSINESS ENTERPRISE

Vendor (is____, is not //) a Minority Business Enterprise. A Minority Business Enterprise is defined as a "business, privately or publicly owned, at least 51% of which is owned by minority group members." For purpose of this definition, minority group members are Blacks, Hispanics, Asian Americans, American Indian or Alaskan Natives, or Women.

SMALL BUSINESS

Vendor (is <u>/</u>, is not <u>)</u> a small business concern. (A small business concern for the purpose of government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operations in which it is bidding on government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria as prescribed by the Small Business Administration).

PART II. SPECIFIC TERMS AND CONDITIONS

1. **DEFINITIONS**

- a. Bidder one who submits a Quote.
- b. Vendor Bidder to whom contract or purchase order is awarded.
- c. Purchaser City of Spokane and other government agencies (Pursuant to RCW 39.34).
- d. Destination-Delivery Delivery to the receiving dock or ground floor of building only; NOT to include uncrating and installation.
- e. Until Further Notice Any time in excess of sixty (60) days from date of opening,
- f. Cost Total cost of ownership based on the best available information.

2. ORDER QUANTITY

Quantities listed are an estimate only, based on a one-year period, for evaluation purposes. Actual orders could be more or less depending on need. Only quantities actually ordered and received will be paid for.

3. CONTRACT PERIOD

The contract shall begin on approximately August 1, 2013 and terminate on July 31, 2014. Contract will be issued as a blanket order and items will be ordered on an "as needed" basis during the contract period.

4. RENEWAL

The contract may be renewed for four (4) additional one-year contract periods, subject to mutual agreement, with the total contract period not to exceed five (5) years. The City shall have complete discretion as to whether or not to renew the contract.

5. ACCEPTANCE PERIOD

Quotes must provide sixty (60) days for acceptance by the City from the due date for receipt of Quotes.

6. NON-COLLUSION

The Bidder certifies that his/her firm has not entered into any agreement of any nature whatsoever to fix, maintain, increase or reduce the prices or competition regarding the items covered by this Request for Quote.

7. INTERLOCAL PURCHASE AGREEMENTS

The City of Spokane has entered into Interlocal Purchase Agreements with other public agencies pursuant to RCW 39.34. In submitting a response the Vendor agrees to sell additional items at the quoted price, terms and conditions to the City of Spokane and other public agencies contingent upon the seller's review and approval at the time of a requested sale. Any price de-escalation/escalation provisions of this Quote shall apply in the case of a sale of additional items. Seller's right to refuse to sell additional items at the time of request shall be absolute.

8. DELIVERY DEFAULT

- A. The acceptance of late performance by the Purchaser shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligations remaining to be performed by Vendor.
- B. When items ordered are not delivered within the terms and time frame established by the contract, Purchaser may procure comparable units from another source and Vendor will be required to pay any differences in cost.

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PART III. INSTRUCTIONS AND SPECIFICATIONS

SECTION I. GENERAL INSTRUCTIONS

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- 1. The items to be furnished by the Bidder on this Quote must be of the latest possible design and production.
- 2. Time is of the essence in the performance of this contract.
- 3. All freight expenses shall be the responsibility of the winning Vendor.
- 4. Successful bidder will designate a representative who will be available during regular City business hours to serve as a primary contact for the City in the implementation of this supply agreement and if any issues arise regarding the product.
- 5. The City of Spokane reserves the right to accept or reject any variance from the published specifications and to award the Quote in a manner that is most advantageous to the continued efficient operation of the City.
- 6. The City reserves the right to accept or reject any part of or all Quotes and to accept the Quote deemed to be in the best interest of the City.
- 7. The City of Spokane reserves the option of awarding this purchase by item grouping or by any manner most advantageous for the City.
- 8. Bidder should be aware that Quotes may be rejected if all questions are not completely and correctly answered.
- 9. Signature on this Quote by the Bidder will confirm receipt and understanding of all instructions, terms, and conditions.

SECTION II. SPECIAL INSTRUCTIONS

- 1. Any specification questions concerning this Quote should be directed to Jason Franklin, Police Department, at <u>ifranklin@spokanecity.org</u> or (509) 835-4511. Any administrative questions concerning this Quote should be directed to Connie Wahl, Purchasing, at <u>cwahl@spokanecity.org</u> or (509) 625-6411.
- 2. More than one Make/Model may be quoted if a separate technical is completed for each Make/Model.
- 3. If the product differs from the provisions contained herein, these differences must be explained in detail.
- 4. Vendors found to have "overstated" the true ability of their product shall reimburse the City for all costs incurred with remanufacturing or replacement of units until all criteria has been satisfied. These costs shall also include legal, rentals, travel, etc.
- 5. Any references herein to a particular make or model number are intended not to be restrictive, but to set forth an acceptable level of quality and design.
- 6. The omission of any standard feature described herein shall not void the bidder's responsibility to furnish a complete unit with all standard equipment of the manufacturer's latest model and design. Equipment to be furnished shall be new and unused unless a demo unit is specified.
- 7. Successful bidder shall furnish standard warranty as well as any other warranty required in the Quote specifications along with statement as to where and how such warranty work will be performed.
- 8. Federal and State laws governing this product and its final certification must be satisfied.

- 9. It shall be the Vendor's responsibility to conform to all Federal Standards for certification.
- 10. The following technical specifications are the minimum acceptable specifications and failure to comply may be used as a basis for rejection of the Quote. Quoted Equivalents and Exceptions to stated specifications will be at the complete discretion of the City regarding evaluation and acceptance.

I ACKNOWLEDGE RECEIPT OF AND COMPLIANCE WITH THE ABOVE GENERAL AND SPECIAL INSTRUCTIONS

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SECTION III. TECHNICAL SPECIFICATIONS

It is the intent of these specifications to describe Police Batons. The City of Spokane reserves the right to determine if items quoted meet minimum specifications and are acceptable based on evaluation of items quoted and, if requested, samples or pictures. Failure to comply with requests may be used as a basis for rejection of the quote.

11. Bidder must acknowledge each specification shown in Section III, Technical Specifications, as follows:

A. "To Be Supplied" Column

Bidder will initial when the product offered is equal to or better than the individual specification. State your exact capabilities if different from specification stated or a tolerance is given.

B. "Exceptions" Column

Explain all exceptions to specification as stated. **NOTE:** All equivalents (substitutes) require explanation. (Use additional paper with reference to item number and respective question (number).

MINIMUM SPECIFICATIONS CALLED FOR	MANUFACTURER & MODEL #	TO BE SUPPLIED	EXCEPTIONS
 Baton, Autolock, Black Chrome Finish, Foam Grip with Safety Tip, 21". 	Monadnock #9120 No Substitutes	in	
 Baton, Autolock, Black Chrome Finish, Foam Grip with Power Safety Tip, 18". 	Monadnock #9170 No Substitutes	an	
3. Baton Holder, Elite Expandable, Black Basketweave Finish.	Bianchi Accumold #7912-24022 No Substitutes	1 pm	
 Baton Holder, Front Draw Autolock 360, for 21" Baton, Black Polycarbonate Basketweave Finish. 	Monadnock #3630 No Substitutes	Ven	
 Baton Holder, Front Draw Autolock 360, for 18" Baton, Black Polycarbonate Basketweave Finish. 	Monadnock #3642 No Substitutes	Uhr	

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PART IV. QUOTE SUBMISSION AND EVALUATION

SECTION I. QUOTE SUBMISSION

1. PREPARATION OF QUOTES

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All Quotes shall be typed or printed in ink, prepared on the document furnished by the Purchaser and signed by an authorized person of Bidder's firm. If errors are made, they may be crossed out. Corrections shall be printed in ink or typewritten adjacent and initialed in ink by the person signing the Quote. IF THE QUOTES CONTAIN ANY OMISSION, ERASURES, ALTERATIONS, ADDITIONS, OR ITEMS NOT CALLED FOR IN THE PROPOSAL, OR CONTAIN IRREGULARITIES OF ANY KIND, IT MAY CONSTITUTE SUFFICIENT CAUSE FOR REJECTION. QUOTES MAY BE SUBMITTED BY HAND, MAIL, OR EMAIL.

2. ENVELOPE PREPARATION OF QUOTES SUBMITTED BY HAND OR MAIL

If Submitting Quote by mail, place one copy of the Quote in a sealed envelope. On the front of the envelope, place the following information:

"QUOTE - IMPORTANT" "RFQ #593-13 POLICE BATONS" "DUE: WEDNESDAY, JULY 31, 2013 – 3:00 PM" YOUR COMPANY NAME

If you do not put the above information on your envelope, it could be opened early or late and damage your chance to respond.

3. MAILING QUOTES

If mailing Quote, submit One (1) copy of the Quote, as follows:

Original Quote Addressed to:

City of Spokane – Purchasing 4th Floor – City Hall 808 West Spokane Falls Blvd. Spokane, WA 99201

4. EMAILING QUOTES

Email one copy to City of Spokane Purchasing at <u>cwahl@spokanecity.org</u>. It is the responsibility of the Bidder to be sure the email is received. If you do not receive an email confirmation sent directly by Purchasing, it is recommended that you call the contact name listed in Quote to confirm receipt. A delivery confirmation receipt generated from your original email is not a guaranteed confirmation of receipt.

The Purchaser is not responsible for Quotes delivered late. It is the responsibility of the Bidder to be sure the Quotes are sent sufficiently ahead of time to be received **no later than 3:00 PM** on the due date.

5. INTERPRETATION

If the Bidder discovers any errors, discrepancies or omissions in the Quote specifications, or has any questions about the specifications, the Bidder must notify Purchasing in writing. Any corrections issued by the Purchaser will be incorporated into the contract or purchase order.

6. WITHDRAWAL OF QUOTES

Bidders may make written request to Purchasing for withdrawal of a sealed Quote prior to the scheduled Quote due date and time. Unless otherwise specified, no Quotes may be withdrawn for a minimum of thirty (30) calendar days after the due date.

7. EVALUATION OF QUOTES

Evaluation of Quotes shall be based upon the following criteria, where applicable:

• The price, including the effect of discounts. Price may be determined by life cycle costing or total cost quoting, when advantageous to the Purchaser.

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- The quality of the items quoted, their conformity to specifications and the purpose for which they are required.
- The Bidder's ability to provide prompt and efficient service and/or delivery.
- The character, integrity, reputation, judgment, experience and efficiency of the Bidder.
- The quality of performance of previous contracts or services.
- The previous and existing compliance by the Bidder with the laws relating to the contract or services.
- Uniformity or interchangeability...
- The energy efficiency of the product throughout its life.
- Any other information having a bearing on the decision to award the contract.

8. QUOTING ERRORS

When, after the opening and tabulation of Quotes, a Bidder claims error, and requests to be relieved of award, he will be required to promptly present certified work sheets. The Purchaser will review the work sheets and if the Purchaser is convinced, by clear and convincing evidence, that an honest, mathematically excusable error or critical omission of costs has been made, the Bidder may be relieved of his Quote.

9. REJECTION OF QUOTES

The Purchaser reserves the right to reject any or all Quotes; to waive minor deviations from the specifications, to waive any informality in Quotes received, whenever it is in the Purchaser's best interest, and to accept or reject all or part of this Quote at prices shown.

10. AWARD OF CONTRACT

Award of contract or purchase, when made, will be to the Bidder whose Quote is the most favorable to the Purchaser, taking into consideration price and the other evaluation factors. INTERLOCAL AND STATE CONTRACTS WHERE APPLICABLE WILL BE CONSIDERED AS A QUOTE. Any order resulting from award will be submitted by Purchasing. Unsuccessful Bidders will not automatically be notified of Quote results.

PART V. STANDARD TERMS AND CONDITIONS

1. PATENTS, TRADEMARKS AND COPYRIGHTS

The Vendor warrants the items to be furnished do not infringe any patent, registered trademark or copyright, and agrees to hold Purchaser harmless in the event of any infringement or claim thereof.

2. TITLE

The Vendor warrants that the items to be furnished are free and clear of all liens and encumbrances and that the Vendor has good and marketable title to same.

3. COMPLIANCE WITH LAWS

The Vendor shall comply with all applicable federal, state and local laws, rules, and regulations, affecting its performance and hold the Purchaser harmless against any claims arising from the violation thereof.

4. CONTRACT DISPUTES

Any contract agreement shall be performed under the laws of the State of Washington. Any litigation to enforce such agreement or any of its provisions shall be brought in Spokane County, Washington.

5. OVERCHARGES

The Vendor assigns to the Purchaser any claims for anti-trust violations or overcharges relating to items purchased in filling the Purchaser's orders. The Vendor warrants that its suppliers will also assign any such claims.

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6. WARRANTIES

The Vendor warrants that the items furnished will conform to its description and any applicable specifications, shall be of good merchantable quality and fit for the known purpose for which sold. This warranty is in addition to any standard warranty or service guarantee by Vendor to the Purchaser.

7. UNIFORM COMMERCIAL CODE

The Uniform Commercial Code (UCC), as effective in Washington State, RCW Title 62A, shall determine the rights and duties of the Vendor and the Purchaser.

8. NON-DISCRIMINATION

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities.

9. SAVE HARMLESS

Vendor shall protect, indemnify and save the Purchaser harmless from and against any damage, cost or liability for any injuries to persons or property arising from acts or omissions of Vendor, his employees, agents or sub-contractors, howsoever caused.

10. TAXES

- <u>FEDERAL</u>. The Purchaser is exempt from federal excise taxes. Exemption certificates will be furnished on request.
- <u>SALES TAX.</u> The City of Spokane is required to pay Washington State Sales/Use Tax on all purchases. Washington State Sales Tax is payable by the City of Spokane direct to the State of Washington on awards made to out-of-state vendors who <u>do not</u> have a Washington State Sales Tax Number. If you have any questions concerning the appropriate rate, contact the Washington State Department of Revenue (509) 482-3800.
- Business, occupational and personal property taxes are the responsibility of the Vendor.

11. BRAND NAME "OR EQUAL"

Brand names and numbers, when used, are for the purpose of indicating the desired quality, performance or use. Vendors may offer other brands of comparable or better quality, performance and use. Descriptive literature shall also be submitted, when available. Any Quote containing a brand which is not of equal quality, performance or use, must be represented **as an alternate and not as an equal.**

12. QUANTITIES

Quantities, when used, are estimates only and are given for the purpose of comparing Quotes on a uniform basis. Quantities shall be quoted on a more or less basis. Payment will be made only for quantities actually ordered, delivered and accepted, whether greater or less than the stated amounts.

13. ASSIGNMENTS

The provisions or monies due under the contract or purchase order shall be assignable only with the prior consent of Purchasing.

14. CHANGES

No alteration in any of the terms, conditions, delivery, price, quality or specifications of items ordered will be effective without the written consent of Purchasing.

15. DEFAULT

The Vendor agrees that if a law suit is instituted by the Purchaser for any default on the part of the Vendor, and the Vendor is adjudged to be in default, he/she shall pay to the Purchaser all costs and expenses, expended or incurred by the Purchaser in connection therewith, and reasonable attorney's fees. Venue

shall be in the County of Spokane, Washington.

16. REJECTION

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All items purchased herein are subject to approval by the Purchaser. Any rejection of items resulting because of non-conformity to the terms or specifications of this order whether held by the Purchaser or returned, will be at the Vendor's risk and expense.

17. TERMINATION

In event of a breach by Vendor of any of the provisions of this order, Purchaser reserves the right to terminate upon immediate oral or written notification to the Vendor. Vendor shall be liable for damages suffered by the Purchaser resulting from Vendor's breach of contract.

18. NON-WAIVER

No delay or waiver, by either party, to exercise any contractual right shall be considered as a waiver of such right or any other right.

19. SEVERABILITY

In the event any provision of this contract should become invalid, the rest of the contract shall remain in full force and effect.

20. MINORITY BUSINESS OPPORTUNITIES

Purchaser actively solicits the participation of certified minority business enterprises in the bidding of any and all goods or services.

21. FREIGHT TERMS

- All freight charges included on an invoice must be supported by a freight bill.
- The Purchaser reserves the right to be advised of selection of method and type of carrier.
- No charges will be allowed for handling, including but not limited to packing, wrapping, bags, containers or reels, unless otherwise stated herein.
- All invoices, packing lists, packages, shipping notices, instruction manuals, and other written documents affecting this order shall contain the applicable purchase order number. Packing lists shall be enclosed in every box or package shipped pursuant to this order, indicating the contents therein. Invoices will not be processed for payment until all items invoiced are received.
- Risk of Loss. Regardless of F.O.B. point, Vendor agrees to bear all risks of loss, injury or destruction
 of items ordered herein which occur prior to delivery; such loss, injury or destruction shall not release
 Vendor from any obligation hereunder.

22. VENDOR'S COOPERATION

The Vendor shall communicate with City of Spokane Purchasing and shall actively cooperate in all matters pertaining to this contract or purchase in any way Purchasing may direct to the end that the Purchaser shall receive efficient and satisfactory service.

Citizen Oversight





Use of Force Commission RECOMMENDATION PROGRESS

20. Invest the Office of the Police Ombudsman with the Authority and Discretion to Open and Conduct Independent Investigations Concerning the Operations, Actions or Omissions of the SPD

Proposition 1 Approved by Nearly 70% of Voters

21. Engage and Interact with the Office of the Ombudsman

- Chief of Police and/or Assistant Chief Hold Monthly Meetings with Police Ombudsman
- Director of Professional Standards Division Will be Direct Point of Contact Between SPD and Ombudsman
- Require All City Employees and Those Acting on Behalf of the City to Cooperate Fully and Truthfully With the Office of the Police Ombudsman
- Give the Office of the Police Ombudsman Full, Unrestricted, and Complete Access to Any and All City Information, Files, Evidence, or Other Material Which the Ombudsman Deems Necessary to the Performance of his/her Duties (Subject to Legal Privilege)

22. Create a Citizen Advisory Board for the Office of the Police Ombudsman

O Pending Resolution of Guild Contract and Implementation of Prop 1







Use of Force

Supporting Documentation:

Proposition One as approved by Spokane Voters

Purpose:

Increase Office of Police Ombudsman investigative authority
Voters' Guide for February 12, 2013 Special Election

PROPOSITION NO. 1 AMENDMENT TO CITY CHARTER REGARDING A POLICE OMBUDSMAN AND COMMISSION

This proposition will amend the Spokane City Charter by adding two new sections to provide for the establishment of an Office of Police Ombudsman, a Police Ombudsman Commission and the independent investigative authority of both entities, as set forth in Ordinance No. C - 34941.

Should this measure be enacted into law?

Yes	 	 	 	🗆
No.	 	 	 	

EXPLANATORY STATEMENT FOR PROPOSITION NO. 1

Proposition No. 1 proposes to amend the City Charter to add two new sections regarding the Office of Police Ombudsman and a Police Ombudsman Commission. The Charter amendment would establish the Office of Police Ombudsman (OPO) as a permanent part of the City Charter. The Charter amendment would establish a new section 129 that provides the functions, duties and responsibilities of the OPO. Section 129 provides that the OPO shall independently investigate any matter necessary to fulfill its duties within the limits of the Revised Code of Washington, Washington State case law, Public Employment Relations Commission decisions, the Spokane Municipal Code, and any collective bargaining agreements in existence at the time this amendment takes effect, but only until such agreement is replaced by a successor agreement. Section 129 also provides that all authority, duties and functions granted to the OPO shall be consistent with the City's managerial prerogative authority under Washington State labor law. Section 129 further provides that the City shall not enter into any collective bargaining agreement that limits the duties or powers of the OPO as set forth in Section 129 unless such limitation is required to comply with existing federal or state law.

The Charter amendment would establish a new section 130 that provides for the establishment of a Police Ombudsman Commission as a permanent part of the City Charter. The Commission would be established in order to determine whether the OPO has performed his or her duties consistent with this charter, the SMC and applicable collective bargaining agreements in existence at the time this amendment takes effect, but only until such agreement is replaced by a successor agreement. The Commission would be authorized to direct the OPO to complete specific functions required under the charter, SMC or collective bargaining agreement, including

performing additional investigative actions necessary for the OPO to comply with his or her duties and responsibilities.

ARGUMENT ADVOCATING VOTERS' APPROVAL OF MEASURE:

Proposition 1 would amend the Spokane City Charter to create an independent Office of Police Ombudsman with investigative authority and a citizens' Police Ombudsman Commission, and require publication of its findings and recommendations. Currently, the City has an Office of Police Ombudsman, but it lacks the power to conduct independent investigations.

Restoring Confidence and Trust in Our Police

• Proposition 1 ensures that everyone in our community is treated fairly by law enforcement and restores confidence and trust in our police department by providing vigorous, independent oversight of the police.

Consistent with the Recommendation of the Experts

• In its December 20, 2012 report, the Mayor Condon's Use of Force Commission concluded: "Investing the Office of Police Ombudsman with the authority and discretion to conduct independent investigations is essential to both establishing objective oversight and building public trust."

Demonstrated Results in Other Communities

• Experience in Boise and in other communities shows that independent police oversight helps build trust in the community, and higher levels of trust lead to increased safety for our citizens and officers alike.

ARGUMENT PREPARED BY:

Committee Chair Pam Behring President, League of Women Voters Spokane Area 2404 North Howard Spokane, Washington 99205 (509) 326-8026 Members Rick Eichstaedt, Executive Director, Center for Justice 35 West Main, Suite 300 Spokane, Washington 99201 (509) 835-5211 Breean Beggs, Attorney 522 W Riverside Avenue, Suite 560 Spokane, Washington 99201 (509) 232-7760

ARGUMENT ADVOCATING VOTERS' REJECTION OF MEASURE:

No argument advocating rejection was submitted.

PROPOSITION NO. 2 AMENDMENT TO CITY CHARTER REGARDING CITY COUNCIL APPROVAL OF TAXES

This proposition will amend the Spokane City Charter by adding a new section to require that, after March 1, 2013, any "new councilmanic tax," as defined in Ordinance No. C- 34950, may be levied or increased only by a majority plus one vote of the City Council; all as set forth in Ordinance No. C- 34950.

Should this measure be enacted into law?

Yes

EXPLANATORY STATEMENT FOR PROPOSITION NO. 2

Proposition No. 2 proposes to amend the City Charter to provide that a majority plus one vote, i.e. five votes, of the City Council would be required to levy a new councilmanic tax or increase an existing councilmanic tax. A "new councilmanic tax" means a tax for which the City Council has the authority to levy but has not or is granted to the city council after March 1, 2013. A councilmanic tax does not include fees, rates and charges, or special assessments such a building permit fees, utility rates or LID assessments. This section does not apply to existing councilmanic taxes levied by the city council as of March 1, 2013 or any renewal or reauthorization of those taxes that does not increase the tax rate.

ARGUMENT ADVOCATING VOTERS' APPROVAL OF MEASURE:

A "yes" vote is reasonable and appropriate for Proposition 2.

This measure is a common sense policy to protect your wallet – something you've already approved five times before at the state level, most recently in November with 66% approval.

The policy is simple – it would require a majority plus one vote of the city council to increase taxes on citizens. In the alternative, voters could simply approve a tax increase with a majority vote.

Why is Proposition 2 good public policy?

In an era of increased partisanship, it requires bipartisanship. It requires lawmakers work together and reach consensus before increasing the financial burden on you. Newspapers across the state have supported supermajority tax policy. "It keeps lawmakers focused on efficiencies," the Spokesman-Review said. The Tri-City Herald wrote, "The approach has been successful in keeping the growth of government in check."

Supermajority requirements are a basic part of our democratic system. They can be found throughout the Spokane City Charter, Washington's constitution and the federal constitution.

This legislative session, Washington lawmakers unable to increase taxes may attempt to pass off costs on local governments, and suggest they raise local taxes to pay for it. Proposition 2 protects Spokane voters from that cost-shifting. Pierce County voters adopted a similar provision in November.

Spokane voters can clearly frame the city's budget challenges with a reasonable "Yes" vote on Proposition 2. It doesn't make tax increases impossible. It requires a greater discussion with citizens about budgeting priorities and your tax burden!

ARGUMENT PREPARED BY:

Committee Chair Michael Allen, Spokane City Councilmember 927 W. 29th Avenue Spokane, WA

Committee Members Steve Salvatori, Spokane City Council Member 1406 N. River Vista St. Spokane, WA 99224

Michael Fagan, Spokane City Council Member 1523 E Dalton St. Spokane, WA 99207

ARGUMENT ADVOCATING VOTERS' REJECTION OF MEASURE:

Proposition 2 asks the citizens to require a 70% majority to raise taxes. Proposition 2 should be rejected for four reasons.

- Proposition 2 is unclear. No one knows which fees or taxes are included in the supermajority charter change. Some fees count but some taxes are not included. Changes to the charter should be rejected if no one can explain what is or is not included.
- 2) Proposition 2 is undemocratic. The minority should not be allowed to control decision making. Thomas Jefferson referred to this as the tyranny of the minority. We cannot and should not tie our hands, especially when a simple majority has always been good enough for our democracy's standard.
- 3) Proposition 2 is unnecessary. None of the proponents can point to a single instance in the last 10 years where a vote increasing taxes would have been affected by this change. Council members do not live in Olympia or Washington DC, they are in our community and make choices knowing that you will come see us if we make a poor decision. If it isn't broke, don't fix it.
- 4) Proposition 2 is not what it seems. The opponents claim that this is exactly like Pierce County. It is not. It applies to all new and existing tax increases where the version that passed in Pierce County only included new taxes. If the proposers cannot tell you the truth about this, what else are they deceiving you about?

ARGUMENT PREPARED BY:

Committee Chair

Jack Geraghty, Former Spokane Mayor and Former County Commissioner 2726 E 19th Avenue Spokane, WA 92223

Committee Members

Ben Stuckart, City of Spokane Council President 2726 E 19th Avenue Spokane, WA 99223

Karen Kearney, Public Safety Activist 2726 E 19th Avenue Spokane, WA 99223

PROPOSITION NO. 3 LIBRARY OPERATIONS LEVY

THE CITY OF SPOKANE ADOPTED RESOLUTION NO. 2012-0106, PROVIDING FOR AN INCREASE IN THE REGULAR PROPERTY TAX LEVY IN EXCESS OF STATE LAW BEGINNING IN 2014 IN WHICH THE FUNDING WOULD BE ALLOCATED ONE HUNDRED PERCENT FOR LIBRARY OPERATIONS. THIS PROPOSITION AUTHORIZES AN INCREASE IN THE REGULAR PROPERTY TAX LEVY FOR 2014 BY \$0.07 PER \$1,000 OF ASSESSED VALUATION FOR A LEVY RATE NOT TO EXCEED \$3.08. THE INCREASE IN THE PROPETY TAX LEVY WOULD REMAIN IN EFFECT FOR A PERIOD OF FOUR YEARS.

SHOULD THIS PROPOSITION BE APPROVED?

YES 🛛

NO 🛛

EXPLANATORY STATEMENT FOR PROPOSITION NO. 3

Proposition No. 3 proposes an increase in the regular property tax levy in excess of state law beginning in 2014 in which the funding would be allocated one hundred percent to library operations. This proposition authorizes an increase in the regular property tax levy for 2014 by \$0.07 per \$1,000 of assessed property value for a levy rate not to exceed \$3.08. The increase would remain in effect for a period of four years.

ARGUMENT ADVOCATING VOTERS' APPROVAL OF MEASURE:

Spokane residents love their libraries. Proposition 3 asks citizens of Spokane to pay a modest amount for the years 2014 to 2017 to do two things: Keep neighborhood library branches open and expand library hours. Without this measure, the libraries will face a \$500,000 deficit forcing the closure of branches.

The Library Board of Trustees asks that citizens support a property tax increase of \$.07 per \$1,000 assessed valuation to increase hours at the East Side, Hillyard and Indian Trail branches. This \$10.50 cost for an average homeowner in Spokane will prevent libraries from closing, and provide equitable service by increasing hours at neighborhood branches. Equal access to knowledge should not be limited and Proposition 3 provides for that access.

The library is a good steward of our public money. The City Council voted unanimously to put this on the ballot because of the confidence in our library system. The library is innovative and technologically advanced. Digital materials (eBooks, eAudiobooks and music) are offered along with traditional library resources. Increased access to Internet is available with computers and unlimited, free WiFi.

The levy is only for four years. It provides interim funding to allow for a community conversation about how to pay for our library in the long term. The library board is committed to having that conversation and to working with citizens to explore all options for sustaining the library system in the future. In the meantime we need to support our library and keep our branches open.

ARGUMENT PREPARED BY:

Committee Chair

Nathan Smith, Yes for Libraries Chair 1520 W 3rd Avenue Spokane WA 99201

Committee Members

Jack Fallis, Spokane Library Board Chair 1520 W 3rd Avenue Spokane WA 99201

Jim Kershner, Spokane Library Board Member 1520 W 3rd Avenue Spokane WA 99201

ARGUMENT ADVOCATING VOTERS' REJECTION OF MEASURE:

Spokane is rich in libraries. Every public school, community college, and university has one. The public can use library resources at the colleges. But the City Library must become more efficient during these austere times of high unemployment and poverty.

Do not buy into "it only cost. . ." idea. By adding up all of the "it only cost. . .," you will be soon talking real money.

Be careful regarding claims about the library's budget. Pay particular attention to the actual results. Here are budgeted and actual amounts for the library for 2011 from financial documents obtained from the City's Finance Office. Budgeted revenues: \$344,155; Actual: \$385,437; Budgeted understated: \$41,282. Budgeted expenditures: \$8,570,998: Actual: \$8,292,197. Budgeted overstated: \$278,801. Other financial sources, budgeted and actual: net \$7,903,780. These resources came from the General Fund. Budgeted deficiency revenues to expenditures: \$323,063; Actual: \$2,980. Budgeted overstated: \$320,083. Beginning fund balance, budgeted and actual, \$1,054,734. Budgeted end fund: \$731,671; Actual: \$1,051,754. Budgeted end balance understated: \$320,083. No budgeted and actual results for 2012 are available at this time.

The Spokesman-Review had an article titled *Library tax could be on ballot* dated December 2, 2012. Here is a partial quote: "In 2011, then-Councilman Richard Rush also proposed a library tax, but he was successfully fought by then-Mayor Mary Verner, who argued that if more taxes were needed, **public safety** (emphasis added) should take priority." The former Mayor was correct then and she is correct now.

You are encouraged to vote no on new taxes.

ARGUMENT PREPARED BY:

Michael Fagan, Spokane City Council Member 1523 E Dalton St. Spokane, WA 99207

21. Engage and Interact with the Office of the Ombudsman

- Chief of Police and/or Assistant Chief hold monthly meetings with Police Ombudsman
- Director of Professional Standards Division will be direct point of contact between SPD and Ombudsman
- Require all City employees and those acting on behalf of the City to cooperate fully and truthfully with the Office of the Police Ombudsman
- Give the Office of the Police Ombudsman full, unrestricted, and complete access to any and all City information, files, evidence, or other material which the Ombudsman deems necessary to the performance of his/her duties (subject to legal privilege)



Use of Force

Supporting Documentation:

SMC 04.32

Office of Police Ombudsman

Purpose:

Current code as it relates to the Office of Police Ombudsman

Spokane Municipal Code

Print | Close Window

Font Size: Increase | Decrease

Title 04 Administrative Agencies and Procedures

Chapter 04.32 Office of Police Ombudsman (OPO)

Section 04.32.010 Office of Police Ombudsman

- A. The office of police ombudsman (OPO) is established in order to:
 - 1. help ensure that investigation of complaints against police officers are accomplished in a timely, fair, and thorough manner;
 - 2. provide visible, professional, independent oversight of police officers; and
 - 3. reassure the public that investigations into complaints and allegations of police misconduct are conducted in a timely, thorough, and objective manner.
- B. The police ombudsman and any employee of the OPO must, at all times, be totally independent. Any findings, recommendations, and requests made by the OPO must reflect the independent views of the OPO.
- C. No person shall attempt to unduly influence or undermine the independence of the police ombudsman, or any employee of the OPO, in the performance of the duties and responsibilities set forth in this chapter.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.020 Definitions

- A. "Chief" means the chief of the Spokane police department.
- B. "Complainant" means any person who files a complaint against any commissioned member of the Spokane police department.
- C. "Complaint" means a complaint by any person of alleged police misconduct.
- D. "Finding" means a conclusion reached after investigation.
- E. "IA" or "internal affairs" means the Spokane police department's investigative unit, whose responsibilities and procedures are described in the Spokane police department's Policy and Procedure Manual, as amended from time to time, to receive and investigate allegations of misconduct by Spokane police department employees.
- F. "Material to the outcome," "material statement," and "material fact" are those facts, evidence, or statements which tend to influence the trier of fact because of its logical connection with the issue. It is a fact which tends to establish any of the issues raised by the complaint or the defenses to the complaint.
- G. "Mediation" means a private, informal dispute resolution process in which a neutral third person, the mediator, helps disputing parties to reach an agreement. The mediator has no power to impose a decision on the parties.
- H. "Member" means a sworn employee of the Spokane police department about whom a complaint has been submitted to the Spokane police department or the OPO.
- I. "Misconduct" means conduct by a member during an encounter with a citizen, which conduct violates Spokane police department regulations or orders, or other standards of conduct required of City employees.
- J. "Policy-related issue" means a topic pertaining to the Spokane police department's hiring and training practices, the Spokane police department's policies and procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer's conduct.
- K. "Serious matter" means any complaint that could lead to suspension, demotion, or discharge.

Date Passed: Monday, October 10, 2011

ORD C34760 Section 1

Section 04.32.030 Functions and Duties

The functions and duties of the OPO are as follows:

- A. The OPO will actively monitor all police department internal investigations.
- B. The OPO may receive complaints from any complaining party, including, without limitation, citizens or employees of the police department. The OPO will forward all complaints to the police department's internal affairs (IA) unit within three business days for processing and, when appropriate, investigation. The OPO will not conduct independent disciplinary investigations, but may participate in interviews as provided herein.
- C. In addition to complaints received by the OPO, IA will provide copies of all other complaints received by the Spokane police department to the OPO within three business days. Once the case is closed, the OPO will return all case file materials to IA for retention but will have subsequent access to closed cases.
- D. The OPO will have the opportunity to make a recommendation for mediation to the chief of police prior to investigation. In the event the department, the complainant, and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline, and no disciplinary finding will be entered against the officer. Good faith means that the officer listens to all information presented and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.
- E. Once any complaint is received by the internal affairs unit, it shall be submitted to the chain of command for review per existing police department policy. When either the chief or the chief's designee determines that the allegations warrant investigation, such investigation shall be approved, and IA will initiate the investigative process.
- F. Internal affairs will notify the OPO of all administrative interviews on all complaints of a serious matter (complaints that could lead to suspension, demotion, or discharge) and all complaints originating at the OPO. The OPO may attend and observe interviews and will be given the opportunity to ask questions after the completion of questioning by the department.
- G. The OPO will not participate in criminal investigations of department employees, but will be notified when the criminal investigation is concluded.
- H. Upon completion of each administrative investigation, IA will forward a complete copy of the case file to the OPO for review. The OPO will determine whether the investigation was thorough and objective.
- I. As a part of the review process, the OPO may conclude that additional investigation is needed on issues deemed material to the outcome. If there is any dispute between the assigned investigator(s) and the OPO regarding the necessity, practicality, or materiality of the requested additional investigation, the chief (or designee) will determine whether additional investigation will be undertaken. If the OPO is not satisfied with the determination of the chief, the matter will be resolved by the mayor, whose decision will be final. Once the matter has been referred to and resolved by the mayor, the investigation will be completed consistent with the determination by the mayor. After completion of the additional investigation, or the conclusion that no further investigation will be undertaken, the OPO will then certify whether or not, in the opinion of the OPO, the internal investigation was thorough and objective. This determination will be made within five business days. Once the above finding is entered in the investigation, the OPO will not be involved further in the disciplinary process in that case.
- J. The OPO shall not have a role in any disciplinary matter. All disciplinary decisions will be made by the chief (or designee).
- K. The OPO will be provided a copy of any letter or other notification to an officer informing the officer of actual discipline imposed as a result of an internal affairs investigation, or any notice of finding in the event that the complaint is not sustained.
- L. The OPO will be notified by IA within five business days of case closure of all complaints of a serious matter and all complaints originated by the OPO. The OPO may send a closing letter to the complainant to summarize the case findings.
- M. Any complaining party who is not satisfied with the findings of the department concerning their complaint may contact the office of police ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the

same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the City in any subsequent challenge to the discipline.

- N. In addition to the investigative process, the OPO will have unimpeded access to all IA complaint and investigative files for auditing and reporting purposes. The OPO shall not retain investigative files beyond one year and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the chief of police in specific cases.
- O. The OPO may recommend policies and procedures for the review and/or audit of the complaint resolution process and review and recommend changes in departmental policies to improve the quality of police investigations and practices. Nothing in this chapter shall be construed as a waiver of the officers' collective bargaining right to require the City to engage in collective bargaining as authorized by law.
- P. The OPO shall not have access to legally privileged documents held by the city attorney or attorney-client communications held by the city attorney's clients. The OPO shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- Q. The police ombudsman may adopt, promulgate, amend, and rescind rules and procedures required for the discharge of the police ombudsman's duties, including policies and procedures for receiving and processing complaints, monitoring investigations, and reporting findings, conclusions and recommendations. The OPO may not levy any fees for the handling of complaints or any other duties identified in this chapter.

Date Passed: Monday, October 10, 2011

ORD C34760 Section 1

Section 04.32.040 Critical Incidents

In the event an employee of the police department is involved as a principal, victim, witness, or custodial officer, where death or serious bodily injury results, or where deadly force was used regardless of whether any injury or death resulted, the police ombudsman shall be notified immediately and shall act as an observer to any administrative or civil investigation conducted by or on behalf of the department. The police ombudsman and the chief shall develop necessary protocols for summoning the ombudsman to the incident for purposes of first-hand observation and subsequent monitoring of the investigation.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.050 Community Outreach

The OPO shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the citizens of Spokane on matters subject to the OPO's jurisdiction.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.060 Qualifications

The qualifications for the position of police ombudsman are:

- A. legal, investigative, or prosecutorial experience;
- B. familiarity with police procedures;
- C. ability to review investigations to ensure they are thorough and unbiased;
- D. successful completion of a criminal background investigation consistent with the requirements to become employed as a Spokane police officer;
- E. demonstrated ability to work with confidential information;

- F. a record of community involvement;
- G. an ability to build working relationships with and communicate effectively with diverse groups; and
- H. a reputation for even-handedness in dealing with both complainants and the regulated parties.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.070 Training

The police ombudsman shall continue his or her professional education throughout the period of employment as the ombudsman in subjects consistent with the responsibilities of employment. At a minimum, such training shall include:

- A. a training program in police procedures and orientation to the Spokane police department, including at least one ride-along with police within six months of appointment; and
- B. completion of the police department's Citizens Academy within one year of appointment.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.080 Appointment

- A. A committee of five members (committee) will be formed that will recommend three candidates for the OPO position to the mayor, one of which must be selected. The committee shall be composed of:
 - 1. one member appointed by the Spokane Police Officers Guild,
 - 2. one member appointed by the Lieutenants and Captains Association,
 - 3. one member appointed by the city council,
 - 4. one member appointed by the mayor, and
 - 5. a fifth member selected by the other four members.
- B. The mayor shall appoint one of the three individuals recommended by the committee to the OPO position. The individual appointed by the mayor and confirmed by the city council must be one of the individuals recommended by the committee.

Date Passed: Monday, October 8, 2012

ORD C34919 Section 1

Section 04.32.090 Term

- A. The appointment of the police ombudsman shall be for an initial three-year term.
- B. A current police ombudsman may be reappointed for additional terms not to exceed three years upon recommendation of the mayor and confirmation by the city council. If the mayor does not recommend reappointment or the city council does not approve the reappointment prior to the expiration of the appointment term, the appointment term shall expire at the end of the term.
- C. Should a vacancy in the position occur, due to expiration of term, resignation, sickness, death, retirement, conflict of interest, or any other reason, the mayor may recommend an appointment for city council confirmation of an interim police ombudsman for a term not to exceed four months, in compliance with the appointment process stipulated in <u>SMC 4.32.080</u>. The selection committee referenced in <u>SMC 4.32.080</u> must meet within thirty days of notification by the mayor of the need to appoint an interim police ombudsman.

Date Passed: Monday, October 8, 2012

ORD C34919 Section 2

Section 04.32.100 Removal

- A. The police ombudsman may not be removed from office during his term except for misconduct, inefficiency, incompetence, inability or failure to perform the duties of the office or negligence in the performance of the duties. Compliance with the confidentiality provisions of this chapter is a condition of employment for all employees of the OPO. Inadvertent, de minimus disclosures shall not be considered a violation of this section.
- B. In such cases that warrant removal from office, removal shall be by a resolution adopted by the city council subsequent to a public hearing by either the majority of the full city council upon recommendation of the mayor or by a vote of no less than five members of the full city council.
- C. Nothing contained herein shall prevent the city council from either declining to approve an appointment or reappointment, or eliminating the office of police ombudsman by legislative action, both of which do not require the city council to consider removal for cause as set forth above.

Date Passed: Monday, October 8, 2012

ORD C34919 Section 3

Section 04.32.110 Reporting Requirements

- A. The police ombudsman reports, for administrative and executive functions, directly to the mayor or the mayor's designee.
- B. The police ombudsman is not an employee of the Spokane police department and shall work independently from the Spokane police department.
 - C. The police ombudsman shall make monthly reports jointly to the mayor, the police chief, and the Public Safety Committee regarding the activities of the OPO. In addition, the police ombudsman shall make an annual report to the city council during a council meeting. The report shall contain:
 - 1. statistical analysis documenting the number of complaints by category, disposition, and action taken;
 - 2. analysis of trends and patterns;
 - 3. recommendations.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.120 Police Advisory Board

Nothing in this chapter shall prevent the mayor and/or the police chief from maintaining a separate police advisory board, or other similar committee, to assist the police department and the City administration in reviewing and developing police policies and procedures.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.130 Annual Review of Office of Police Ombudsman

Subsequent to the annual report to the city council from the police ombudsman, the City shall review the OPO program to determine if amendments to this chapter or changes to the program are required.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1

Section 04.32.140 False Reporting

A. The OPO shall have the discretion to decline further action on a complaint filed with the OPO if it is found that there is a reasonable belief that the alleged acts of misconduct in the complaint are false and that the person(s) filing the complaint knew

them to be false at the time the complaint was filed.

B. The employees of the OPO are considered public servants for purposes of <u>SMC 10.07.020</u>. Any person who knowingly makes a false or misleading material statement to the OPO is subject to criminal sanctions in <u>SMC 10.07.020</u>.

Date Passed: Monday, October 6, 2008

ORD C34302 Section 1





City Administration

Spokane Police Department

Use of Force Commission RECOMMENDATION PROGRESS

23. The Mayor Should Maintain an Active and Visible Role in SPD Oversight and Administration and in Promoting the Department to the Community

- Mayor and Chief of Police Accepted and are Committed to the Implementation of all 26 of the Use of Force Commission's Recommendations
- Mayor Continues to Support the Role of the Police Ombudsman and is Ultimately Responsible for the Renewal of OPO Contract
- Mayor Attends Weekly CompStat Crime Strategy Meetings
- Mayor's Priorities Align with Need for Additional Police Resources to Drive Down Crime Rate in the Community
- City Administrator Reviews All SPD Disciplinary Recommendations in Which a Suspension of One Day or Longer is Ordered by the Chief of Police
- Mayor Attends Community Events Engaging Citizens in Discussions About the Importance of Enhanced Policing in the Community
 - National Night Out Against Crime
 - Media interviews, radio appearances, and town hall meetings
- The Mayor, in Consultation With the City Attorney and the Chief of Police, has Enlisted the Services of an Independent Counsel to Conduct Investigations and Mediate Legal Settlements as Necessary to Ensure the Integrity and Impartiality of Significant SPD Issues

 The City Attorney's Office (CAO) Should Maintain
Separation of Duties and Functions Between Litigation Support, Employment Law Representation, and Police Legal Advising

> SPD legal Issues are Screened and Assigned Individually to Avoid Conflict and Ensure the Integrity of Investigations

 The CAO Should Adopt Strict Policies and Procedures
that Ensure the Office Maintains Appropriate Distance from All Criminal Prosecutions of SPD Personnel

> Policies and Procedures Have Been Adopted in the CAO to Ensure Separation from Criminal Prosecutions of SPD Officers

The CAO Should Take an Active Role in the

26. Development and Updating of the SPD's Use of Force Policies, and the Department's Use of Force Training Materials and Program

- Police Legal Advisor Assigned Full-Time to SPD to Work in Collaboration with the Chief, Assistant Chief and Director of Professional Standards Division
- CAO Provides Oversight to SPD
- CAO Actively Monitors State and Federal Cases and Their Application to Use of Force Concerns in the Spokane Community
- CAO Ensures that SPD Training Materials Remain Up to Date





Use of Force

Supporting Documentation:

Mayor's Introduction to 2014 City Budget Proposal

Purpose:

The Mayor is actively involved in the oversight and administration of the Spokane Police Department

Introduction

A Letter from Mayor David A. Condon



Twenty months ago, you entrusted me to manage your investment in a stronger, safer community. Since then, we've assembled a team of highly qualified individuals who refuse to accept the notion that good government has to be expensive government. Instead of throwing more money at broken systems, we've taken a hard look at what we can do to spend your money wisely and maximize outcomes.

By approaching our business from a different angle, we've found ways to invest more without asking for more. Working together across departments, we've aligned this budget around a common goal: to provide you, our citizens, with better, more affordable service. We have begun implementing integrated projects that meet more of our needs, save you from double-digit utility rate increases, and attain our goal of a cleaner river, faster. By aligning resources with your priorities, we're also able to invest in additional police officers.

We will continue to pursue fiscally responsible business practices, investments and expenditures to ensure we remain *accountable* to you, *aligned* with our core values and budget principles and deliver the *affordable*, superior service you deserve. I believe in President Lincoln's expectation of government, that: "It is as much the duty of the government to render prompt justice against itself, in favor of its citizens, as it is to administer the same between private individuals."

Thanks to your feedback, we've identified public safety and streets as community priorities and made a commitment to invest there first. Last year's budget was about living within our means, and we wouldn't have gotten there without your participation or strong City Council leadership.

As you review this document, you'll notice that we've addressed a budget deficit and made key investments. While last year's discussion centered on less than 1% of the nearly \$600 million budget, the City Council ultimately upheld the budget principles on every account and delayed investments until our finances were sound. Today, we still agree on those key investments, and as a result of last year's efficiencies, are now able to invest in them.

Those same themes of affordability, accountability and alignment guide our proposed allocation of funds across 12 divisions in 2014, and our solution to keep costs manageable amid increasing demands for enhanced service. I want to thank the City Council for its commitment to our budget principles and for its work to represent your values throughout this process.

Also included in this document is a budget calendar that identifies opportunities for engagement. I encourage you to take advantage of those opportunities and make your voice heard. We rely on interactions with you to inform our decisions as we finalize the budget and prepare to make these key investments.

Thank you for taking the time to review this program budget proposal, sharing our passion to build the "City of Choice" in Spokane and working with us to streamline, realign, prioritize and reinvest. I am continually honored to serve all of you as Mayor of our town.

Sincerely,

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Our Mission

As we build a path to a sustainable financial future for the City of Spokane we must reconnect with the City's mission statement. It was developed and ratified over a number of years by many City Councils and Mayors and reads:

To deliver efficient and effective services that facilitate economic opportunity and enhance quality of life.

Delivering "efficient and effective services" requires thoughtful evaluation of and improvement in each line of service to ensure that we are, in all cases, delivering the best quality service possible for the dollars the Citizens of Spokane entrust to us.

Our Guiding Budget Principals

Our City Council has also established a set of core budget principals that guide our conduct in developing responsible, sustainable budgets across the organization. Our budget principals are:

- Don't spend more than you take in
- Don't spend one-time money on ongoing expenses
- Maintain prudent budget reserves
- Maintain strict controls on hiring and spending
- Fund the highest priority services first

Our Budget Philosophy: Affordable, Accountable, Aligned

In addition to the principles we adhere to when developing the City's annual budget, we adopted a philosophy during the 2013 budget process to help guide our decisions and better serve our citizens. That philosophy calls on us to consider *affordability*, *accountability* and *alignment* in all of our budget deliberations and actions. To provide the best service, we can't run government the way we always have. We have to tear down the silos, change the culture, and focus on our core lines of business.

Affordability

Fundamentally, government must be affordable to the citizens we serve. Our budget philosophy of affordability demands that we consider the financial impacts of our decisions and encourages us to consider how each dollar invested could result in multiple benefits.

Accountability

In addition to the consideration of financial impacts, each action of the City and its employees must be accountable and transparent to our citizens. We must be open and easily understood, demonstrating that City resources have been invested responsibly.

Alignment

All of the City's lines of service must align with the core competencies of municipal government. All other services, if still deemed necessary, must be supported by partner organizations or jurisdictions. In duplicating services or conducting business for which another partner or agency may be more effective we are neither affordable nor accountable.

Building the City of Choice

In a nutshell, we should focus on what we do best, integrate services to achieve more impactful results, be more responsive and flexible and do all of this within our means.



General Fund Balance

The General Fund portion of the City's budget, accounting for nearly \$160 million, is almost entirely related to employee costs. General Fund revenue sources are largely made up of utilities, sales and property taxes.



We are on track to deliver services on budget in 2013 as promised. While we've seen a slight increase in sales tax revenue, which is a good sign, we've invested those dollars in Police overtime to ensure our community is safe during our cornerstone events like Hoopfest, Bloomsday and the Lilac Festival. The end result is that we expect to close the 2013 budget on forecast.



Section

Section

Priority #4 Healthy Reserves:

Over the course of the recent recession the City's reserve accounts were used to help balance the budget. In this program budget we propose rebalancing the City's reserve accounts to maintain our positive financial ratings and better reflect budget needs. Additionally, we would like to work with the City Council to update policy relating to use of revenue reserves to ensure healthy reserves into the future.



Contingency: An emergency reserve fund for one-time, unforeseen expenses **Revenue Stabilization:** Commonly referred to as the "rainy day fund"

Making Progress, More to Do

Significant improvements in affordability, accountability and alignment have the City on the right path. We are becoming a leaner, more efficient operation, but we must stay disciplined, diligent and deliberate in our approach. Much more remains to be done. We look forward to working with the City Council and citizens of Spokane during this budget process.

Outstanding service and value requires good stewardship of the resources entrusted to us through long-term, sustainable solutions. Those include updating our service delivery models to better meet the evolving needs of citizens and working within the existing regulatory environment to align our contracts to the new ways citizens are asking us to do business.

That means focusing on citizens, emphasizing the budgeting fundamentals and driving a level of transparency that furthers accountability.



SPOKANE 2014 BUDGET

Affordable



Invest more in top priorities with existing resources



Deliver integrated projects with multiple impacts; every dollar working harder



Aligned

Rebalance reserves to protect for the future

Build an adaptive workforce

to enhance service

Match revenues with expenses

Accountable

Find efficiencies everywhere

Maintain Utility rate growth at CPI (2.9%); get

to a cleaner river faster

Reduce Police administrative overhead	\$800K	\$1.4M Restructure debt to pay for Police officers \$2.5M (target)
Integrate Finance/IT resources	\$500K	Improve transportation network with storm water
Decrease Jail bill	\$400K	Develop capital fund program using 1% property
Restructure Legal and Planning	\$300K	tax authority \$200K Allocate parking revenue \$800K to Police
Lessen Other overhead	\$230K	Assign engineering resources to Utility projects
Minimize overhead with technology investments	\$120K	\$1M Amortize Fire Pension to sustain Fire \$600K
Reduce criminal justice overhead	Sesk	Assign cell tower revenue to Asset Management



Use of Force

Supporting Documentation:

2014 Proposed Police Budget

Purpose:

The Mayor is actively involved in the oversight and administration of the Spokane Police Department



Year (Number of FTEs)



* 2010 through 2012 Actual 2013 through 2014 Budget



Police

Law Enforcement Grants

Grants dollars are used to enhance technology, sustain necessary equipment purchases, and support essential traffic programs such as Click-it-or-Ticket, x52 (DUI emphasis), Drive Hammered - Get Nailed, and others. They also support two detectives' positions in TCU and SVU.





Department Summary: Spokane Police Department

Division: Police Priority: Safety

Fund Type: General Fund

Executive Summary:

The mission of the Spokane Police Department is to demonstrate excellence in policing by working in partnership with the community we serve to prevent and reduce crime, the fear of crime, and improve the quality of life for our residents and visitors.

Programs and Services:

The primary responsibility of the Spokane Police Department is community safety achieved by reducing crime, fear, and disorder. Integral to that responsibility is a police organization that conducts its activities lawfully, constitutionally, and respectfully at all times. A police department protects individual rights and freedoms, as well as values the contributions made by every member of our community. The Spokane policing model is built on: integrity, accountability, and transparency.

The Spokane Police Department strategic plan reflects our commitment to working in collaboration with residents, businesses, city departments, and our law enforcement partners to address crime, the fear of crime, and disorder in Spokane. Five principles will guide our policing strategy. They serve as the foundation for developing programs, pursuing opportunities, and delivering enhanced police services.

Integrity

To build more effective community collaboration, the Spokane Police Department must be seen as a legitimate legal authority, engaged in proactive versus reactive policing activities. Trust and confidence in the Spokane Police Department is the foundation of cooperation between the Department and the community we serve. The SPD will be more accessible, more transparent, and more effective in its communications and practices. We will hold each and every member of the Spokane Police Department accountable for providing outstanding police services and for doing so with integrity, professionalism, and compassion.

The Department's top priority is to reduce crime in the City of Spokane with practices that are lawful, that respect all members of our community, and that ensure the safety of the men and women that police our neighborhoods.

We will restore trust between the community and the police department, between our officers and their own department, and we will do so in a constitutional, consistent, and compassionate manner. The Department will continue to implement the recommendations made by the Mayor, Council, and the Use of Force Commission. The Department will also continue to work closely with the Ombudsman.

Collaboration

Public safety is a community responsibility. Neighbors, parents, youth, business owners, city employees, school employees and teachers, as well as county, state and federal law enforcement agencies all play a role in making Spokane a safer city. The Department will work diligently to create and sustain the kind of partnerships necessary to transform neighborhoods and improve the quality of life in our city.

We will collaborate with our partners in the social service and public health community to address the challenges posed by mental health, developmental disabilities, autism, domestic violence, and drug and alcohol dependency. We will reinvigorate our Crisis Intervention Team and establish police-mental health practitioner response teams to assist those in crisis and connect them to available services. We will also work with our partners to develop and implement programs focused on preventing youth violence and their involvement in the criminal justice system.

Smart Policing

Our strategies and tactics will be guided by data, information, intelligence, and evidenced-based practices. In that regard, we will track, report, and respond to crime at the neighborhood level using an enhanced CompStat model. We will look at crime data on a daily basis and use weekly crime strategy meetings to direct our neighborhood resource officers, patrol, investigative, and specialized units to address the persons, activities, and places that our disrupting the quality of life in our neighborhoods.

FTEs	Contraction of Contraction of Contraction	er menner Marker November 18	Water International According to		
Support of the second state of the second	2010 Actual	2011 Actual	2012 Actual	2013 Budget	2014 Proposed
Total FTEs	54.00	48.50	49.50	49.50	52.50
Expenditures:					A CONTRACTOR OF A CONTRACTOR
	2010 Actual	2011 Actual	2012 Actual	2013 Budget	2014 Proposed
All Other	1,099,225	1,438,804	1,312,350	1,240,000	1,250,763
Capital Outlay	32,548	11,903	15,292	0	0
Debt Services	0	0	0	0	0
Interfund Charges	789,363	962,350	847,279	1,079,027	1,025,917
Reserve for Budget	0	0	0	0	40,000
Supplies & Svcs	1,297,293	1,235,546	1,310,989	1,580,729	1,694,759
Transfers Out	267,993	223,137	261,195	357,507	151,628
Wages & Benefits	4,714,338	4,987,539	5,231,063	5,343,625	6,006,109
TOTAL	8,200,760	8,859,279	8,978,168	9,600,888	10,169,176

Expenditure Explanation:

Wages & Benefits are reported at budgeted amounts, not actual expenditures. Please see department wide summary for total expenditures.

Revenues:	1. (1) (1. Av(0)(4)	at LARM	2007 Acigoal	The Sector Sector Sector	All Strengthers
All Other	0	0	0	0	0
Fines & Forfeits	65,439	47,021	54,534	57,000	57,000
General Fund Resources	8,029,907	8,695,406	8,791,027	9,405,088	9,954,011
IG Revenue	26,626	36,107	21,786	49,800	69,165
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	78,788	80,745	110,821	89,000	89,000
Taxes	0	0	0	0	0
TOTAL	8,200,760	8,859,279	8,978,168	9,600,888	10,169,176

Revenue Explanation:





Police

Revenues:		2018: Notus	2012 Actual	2013 Sudget	2014 Procused
All Other	1,164	(497)	551	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	23,792,011	23,989,426	23,871,836	23,528,631	22,434,996
IG Revenue	2,882	231,601	298,685	235,000	950,000
Licenses & Permits	0	0	0	0	0
Operating Transfers In	174,202	0	0	0	0
Services	753,498	926,583	910,594	1,204,917	872,187
Taxes	543,770	562,420	1,430,403	1,400,000	1,400,000
TOTAL	25,267,527	25,709,533	26,512,069	26,368,548	25,657,183

Revenue Explanation:







Revenues:	and the second	the subscreek of the second life	and a strategy with the		
	2010 Actual	2011 Actual	2012 Actual	ZOLA BUOLIEN	2012 d Proposed
All Other	0	0	0	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	2,432,602	2,602,033	2,595,285	2,834,190	2,642,176
IG Revenue	0	0	0	0	0
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	215,255	271,884	318,395	345,000	345,000
Taxes	0	0	0	0	0
TOTAL	2,647,857	2,873,917	2,913,680	3,179,190	2,987,176

Revenue Explanation:



Police



2013 Budget	2012 Actual	L1 Actual
178.00	196.00	190.00
	2013	

Expenditures:		and the second se	A CONTRACT OF A	STATES AND A DESCRIPTION OF	
THE PLACE STREET	2010 Actual	2011 Actual	2012 Actual	2013 Budget	2014 Proposed
All Other	0	0	0	0	0
Capital Outlay	975,494	778,137	767,958	0	0
Debt Services	0	0	0	0	0
Interfund Charges	224	42	1,550	26,978	26,978
Reserve for Budget	0	0	0	0	0
Supplies & Svcs	277,143	305,154	429,965	432,641	344,080
Transfers Out	0	0	0	0	0
Wages & Benefits	18,794,873	19,110,068	20,288,503	20,536,402	17,851,127
TOTAL	20,047,734	20,193,401	21,487,976	20,996,021	18,222,185

2010 Actual 182.00

Total FTEs

Expenditure Explanation:

Wages & Benefits are reported at budgeted amounts, not actual expenditures. Please see department wide summary for total expenditures.

Revenues:		and the second second second second	And some state of some of balance		
· · · · · · · · · · · · · · · · · · ·	distant de train	PELS ADDR	2010/2010/06	(19) I. Marcielski	City of Texas and the Ber
All Other	1,164	(497)	551	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	18,802,618	18,861,076	19,296,496	18,929,604	15,697,498
IG Revenue	2,882	222,551	289,185	235,000	615,000
Licenses & Permits	0	0	0	0	0
Operating Transfers In	174,202	0	0	0	0
Services	523,098	547,851	471,341	431,417	509,687
Taxes	543,770	562,420	1,430,403	1,400,000	1,400,000
TOTAL	20,047,734	20,193,401	21,487,976	20,996,021	18,222,185

Revenue Explanation:





FTEs

Revenues:

	20010 Actoral	-2011 Actual	2012 Actual	2013 Budget	2014 Proposed
All Other	0	0	0	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	1,682,995	1,784,179	1,169,199	1,021,006	1,010,539
IG Revenue	0	0	0	0	0
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	7,495	98,893	120,858	408,000	352,500
Taxes	0	0	0	0	0
TOTAL	1,690,490	1,883,072	1,290,057	1,429,006	1,363,039

Revenue Explanation:


FTEs				er anna a statut a s	A VALUE AND A V	
an an at a family stat		2010 Actual	2011 Actual	2012 Actual	2013 Budget	2014 Proposed
To	tal FTEs	6.75	6.75	6.75	6.75	6.75
Expenditures:				THE REPORT OF THE OWNER POINT IN	encomentaria de la comparte de la co	
		2010 Actual	2011 Actual	2012 Actual	2013 Budget	2014 Proposed
A	All Other	37,408	92,363	71,000	35,000	0
Capita	l Outlay	49,952	329,943	3,624	0	0
Debt	Services	0	0	0	0	0
Interfund	Charges	86,502	170,447	184,660	170,656	172,000
Reserve for	Budget	0	0	0	0	0
Supplie	s & Svcs	22,066	81,076	119,576	100,382	113,332
Trans	fers Out	0	0	0	0	0
Wages &	Benefits	516,692	591,980	578,472	595,588	571,521
	TOTAL	712,620	1,265,809	957,332	901,626	856,853

Expenditure Explanation:

Wages & Benefits are reported at budgeted amounts, not actual expenditures. Please see department wide summary for total expenditures.

Revenues:	and a state of the state of the		an in Arriva	2013330613	a Division (11)
All Other	0	0	0	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	418,925	965,861	520,832	651,626	606,853
IG Revenue	293,695	299,948	436,500	250,000	250,000
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	0	0	0	0	0
Taxes	0	0	0	0	0
TOTAL	712,620	1,265,809	957,332	901,626	856,853

Revenue Explanation:

Building the City of Choice



Police

Revenues:

	2010 Actor	2016 Actual	20112 (ACU(0)	2013 Budget	20114 (2000) 2001
All Other	0	0	0	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	2,623,756	2,210,912	2,335,788	2,110,619	1,858,321
IG Revenue	113	0	0	0	0
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	0	0	0	0	0
Taxes	0	0	0	0	0
TOTAL	2,623,869	2,210,912	2,335,788	2,110,619	1,858,321

Revenue Explanation:





Revenues:

	2003 Action 2005	$ \langle A \sigma(t_D) \rangle = 2$	oliz Action 2016	Studiget 20	na baolin saga
All Other	0	0	0	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	0	0	0	0	1,520,819
IG Revenue	0	0	0	0	0
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	0	0	0	0	0
Taxes	0	0	0	0	0
TOTAL	0	0	0	0	1,520,819

Revenue Explanation:





Building the City of Choice

Police

Revenues:

	26 (9) Actual (5.20)	f Aristal 👘 24	$\theta = (\Delta \hat{x}_1(t))^{-1/2}$	2 ($a_{1}^{2}(a_{2}^{2}(a_{3}))$	2.210.08.15
All Other	0	0	0	0	0
Fines & Forfeits	0	0	0	0	0
General Fund Resources	0	0	0	0	1,061,018
IG Revenue	0	0	0	0	0
Licenses & Permits	0	0	0	0	0
Operating Transfers In	0	0	0	0	0
Services	0	0	0	0	0
Taxes	0	0	0	0	0
TOTAL	0	0	0	0	1,061,018

Revenue Explanation:



Building the City of Choice

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Use of Force

Supporting Documentation:

Internal Affairs and Critical Incident Investigations

Purpose:

Example of training attended by City Attorney's Office

LIST OF SPEAKERS

Michael Coviello

Mr. Coviello is currently the Associate General Counsel to the Fraternal Order of Police, responsible to the Labor Services Division for in-house consultation, support, and training on all issues affecting law enforcement. Prior to this representation on a national level, Mr. Coviello was General Counsel to the Florida State FOP Lodge, directing all legal issues for 5300+ members. He received his *Juris Doctorate* from Nova University, Shepard Broad Law Center (magna cum laude).

Randy Means

Mr. Means is an attorney in the Charlotte, North Carolina law firm of Thomas & Means. Over the past 32 years, he has served as head of legal training for North Carolina's state law enforcement training center, coordinator of legal training for the North Carolina State Bureau of Investigation, and police attorney for the City of Charlotte. He has been a featured speaker at many national conferences and has done specialized in-house training for hundreds of law enforcement agencies. He is the author of *The Law Of Policing*, published by LRIS.

Shannon Presby

Mr. Presby is currently a Deputy District Attorney in the Los Angeles County District Attorney's Office in the Justice System Integrity Division. He received B.A. degree in philosophy from California State University Northridge and his Doctor of Jurisprudence from the University of California at Davis.

Darrell L. Ross, Ph.D

Dr. Ross is a professor and Chair of the Department of Sociology, Anthropology, and Criminal Justice at Valdosta State University. He received his Ph.D from Michigan State University in 1992. He has performed research on the impact of stress on officer perceptions and performance during lethal force confrontations in a virtual simulator; the impact of stress and contextual cues on human performance during lethal force encounters; patterns of subject behaviors/resistance during arrest and detention; training liability and the use of force; sudden deaths in custody, excited delirium and risk factors, and positional asphyxia; deaths associated with CEDs, risk factors and unexpected custodial deaths; prisoner assaults on correction officers.

Michael Stone

Mr. Stone is a police defense (civil, criminal, administrative, appellate) specialist, based in Southern California for 30 years. He is a former police officer, agent, supervisor and police attorney. He has been an active police trainer over his entire career, and has trained thousands of police executives, managers, investigators and association representatives in all aspects of police law and litigation. Formerly the General Counsel for the Los Angeles Police Protective League (Lieutenants and Below Unit) he is presently General Counsel for the Los Angeles Police Command Officers Association (Captains, Commanders and Deputy Chiefs Unit), as well as for the Riverside Sheriffs Association Legal Defense Trust, and the Los Angeles Police Association. The CAO should adopt strict policies and procedures that ensure the office maintains appropriate distance from all criminal prosecutions of SPD personnel

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Policies and procedures have been adopted in the CAO to ensure separation from criminal prosecutions of SPD officers



Use of Force

Supporting Documentation:

Police Legal Advisor Briefing for Crisis Intervention Training

Purpose:

The City Attorney's Office plays an active role in the training of Spokane Police Department members via the Police Legal Advisor



Overview of Washington Law

- Adults, Chap. RCW 71.05
- Juveniles, Chap. RCW 71.34

"Gravely disabled"

A person, as a result of a mental disorder:

- from a failure to provide for his or her essential Is in danger of serious physical harm resulting human needs of health or safety; or
- functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is <u>Manifests severe deterioration in routine</u> essential for his or her health or safety

Authority of Designated Mental Health Professional - DMHP

- person presents a likelihood of serious harm; Investigate and evaluate specific facts that a or is gravely disabled
- Interview the person to determine whether the person will voluntarily seek treatment
 - File a petition for initial detention
- Notify a peace officer to take such person into custody and placed in an evaluation and treatment facility

RCW 71.05.150

Authority of Designated Mental Health Professional - DMHP

- custody in an evaluation and treatment facility order such person to be taken into emergency Take such person, or cause by oral or written for not more than seventy-two hours.
- Presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled

RCW 71.05.153

Authority of a Peace Officer

- Take or cause such person to be taken into custody and stabilization unit, evaluation and treatment facility, or the emergency department of a local hospital: immediately delivered to a triage facility, crisis
- Pursuant to subsection (1) of this section (Petition for Initial Detention) •
- in imminent danger because of being gravely disabled. presents an imminent likelihood of serious harm or is When he or she has reasonable cause to believe that such person is suffering from a mental disorder and •

RCW 71.05.153

SPD Policy 418 Mental Health Commitments

 It is the policy of this department to utilize on-(CIT) members to be dispatched, respond to, duty and available Crisis Intervention Team and handle calls involving a suspected or actual mentally disabled individual.

Overview of Basic Procedural Issues

×.	5	FOR SPOKANE COUNTY	UNTY		
IN RE DETENTION OF Respondent	\sim	NO. ALTHORIZATION FOR INITIAL APPREHENSION RCW 71.36 (Minor) RCW 71.34 (Minor)	FOR INITIAL AF	PREHENSION	
To any. 🛛 Pesce Officer	🗖 American	🗖 American Medical Response	ū		
 Responderit. Pursuant to RCW 71.05.150 has been ardered to be detained for evaluation and treatment pursuant to an order issued by a Court; or Pursuant to RCW 71.05.153(1)(2)(a) as a recut of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled. The DMHP may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than eventy-two hours as described in RCW 71.05.180; or Pursuant to RCW 71.34.710(1) when a DMHP may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than eventy-two hours as described in RCW 71.05.180; or Pursuant to RCW 71.34.710(1) when a DMHP may detailed, that minor, thicheen years or older, as a result of a mentile disorder, presents a Release of person or the person or the person or reaves information, and how of the credition for inpetient treatment is not possible, the DMHP may take the minor, or cause the minor to be taken, into custody and transported to an evaluation and treatment facility providing inpatient treatment, or custody and transported to an evaluation and treatment facility providing inpatient treatment, or Pursuant to RCW 71.05.340 is in violation of an ID LRA or ID CR analor intest substantiaty detectorated in functioning. 	the been ordere (2)(a) as a res ise of being gra is taken inth em d in RCW71.00 d in RCW71.01 d in RCW71.01 the person or a the violation and	d to be detained for ult of a mental disor wely disabled. The ergency custody in 5.180; or 7. receive informati bens have informati bens have informati bens norviding the bis, the DMFHP may theatment facility pr	evaluation and der, presents a DMHP may take an evaluation ar wey disabled, in Information, an Take the minor, o witting inpetitent and/or fras subs	treatment pursus i imminant likalit such person, or di treatment faci thirteen years or thirteen years or the investigated the restment, or treatment, or antiality detection	art to an order issue bod of serious harm cause by oral or ity for not more than older, as a result of a specific facts of that voluniary or to be taken, into the din functioning;
Dother					
You are authorized to take or to cause such person to be taken into custody and placed at D Providence Sacred Healt Medical Center D Eastorn State Hospital D Collepel Evelvetion and Treetment Facility D Foothills Evelvation and Treatment Fac D Other	it Center It facility I	on to be taken into custody and placed at D. Eastein State Hospital D. Foothills Evaluation and Treatment Facility	Jebody and place pital e and Treatmen	ed att tt Factory	а́(
DATED this		day of	- - 		
VOLUNTARY TRANSPORT	****	Spokane Co	irrty Designated	Spokane County Designated Mental Health Professional	Tofessional
To any 🗆 Peace Officer 🛛 🖓	C American Medical Response	cal Response			
You are negrested to take the Respondent to: D Providence Sacred Heart Medical Center C Foothills Evaluation and Treatment Facility		Calitabel Evaluation and Treatment Facility D Other	and Treatment	Facility	
Should the Respondent request to be released prior to arriving to other shove location, you are to transport the Respondent to an Emergency Depertment at a local hospital for evenuation by a Designated Mental Heatth Professional	e released prio. Ament at a loca	r to arriving to other A hospital for evelua	above location, tion by a Design	you are to trans lated Membal Hei	port the atth Protessional.
To Voluritary petient: Your signature indicates agreement to the above conditions for transport	indicates agrae	ement to the above	conditions for th	anaport:	
		Dated this	Day of		8
Signature		Dated this	Dey of		2
Witness Authorization for Initial Apprehension	я			о д у	Spokane Mental Health

Non-Emergent Detention

presents a likelihood of serious harm or is One where the mentally disabled subject gravely disabled.

Officers may take the subject into custody only when:

- The mentally disabled person has been evaluated by a designated mental health professional; and
- mental health professional has filed a petition for Upon determining the need for detention, the initial detention; and
- <u>that the officer take the subject into custody and</u> The mental health professional has requested have him or her placed in a treatment facility (RCW 71.05.150).

Emergent Detention

One where, as the result of a mental disorder a person presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled. Officers may take the subject into custody only under the following circumstances:

- mental health professional who has evaluated At the written or oral request of a designated the subject and determined the need for an emergent detention, or
- believe that the person is in need of emergent When the officer has reasonable cause to detention.

Basic Rights of Patients Detained

- Due Process:
- Notice (unless emergency detention)
- Right to a Hearing
- Right to Counsel
- To seek release / Least Restrictive Alternative

Basic Rights of Patients Detained

- Both the person and a responsible member of his or her immediate family shall be advised as soon as possible in writing or orally,
- treatment facility where the person is detained By the officer or person taking him or her into <u>custody</u> or by personnel of the evaluation and
- That unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

Notice to Patient and Family Member

- A judicial hearing in a superior court
- Shall be held within seventy-two hours
- person for up to an additional fourteen days To determine probable cause to detain the
- <u>likelihood of serious harm or that the person</u> Basis: person's mental disorder presents a is gravely disabled

Rights of Persons Detained

- Right to communicate immediately with an attorney;
- represent him/her before and at the probable Right to have an attorney appointed to cause hearing if he or she is indigent;
- Right to be told the name and address of the attorney that the MHP has designated pursuant to this chapter

Rights of Persons Detained

- The person has the right to remain silent and that any statement he or she makes may be used against him or her;
- The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and
- medications, including antipsychotic medication The person has the right to refuse psychiatric beginning twenty-four hours prior to the probable cause

SPD Policy 418, Mental Health Commitments

 If an officer believes that a person falls within the provisions of RCW 71.05, he/she shall transport that person to the designated facility for evaluation and commitment.

SPD Policy 418, Mental Health Commitments

- The commitment of a person does not constitute an arrest.
- Community Caretaking function
- Authorized under State Law

What Authority Do Officers Have?

- Investigate
- Detain
- Deliver
- Search

- Report Writing
- Sharing / Protecting of Information

What Responsibilities Do Officers Have?

- Safeguard the rights of mentally disabled individuals.
- might assist in determining the cause and Consider any available information which nature of the mental illness
- situations involving mentally disabled techniques for potentially dangerous Conflict resolution and de-escalation persons.

What Responsibilities Do Officers Have?

- Appropriate language usage when interacting with mentally disabled persons.
- If circumstances permit, alternatives to deadly force when interacting with potentially dangerous mentally disabled persons.
- **Consider community resources which may be** <u>readily available to assist with the mentally</u> disabled individuals.
- The need to protect public safety. •

Typical Court Cases Based on Your **Reports:**

- Mental Health Commitment, of Subject
- Criminal, Against Subject
- Custody of Subject's Dependents
- Guardianship of Subject
- Civil Suit:
- a) By/Against Subject
 - b) Against You

Arrest Warrant Reasonableness Objective "SHALL" VS. Initial Apprehension" **Authorization For** Reasonableness "Involuntary Objective "MAY"

Apprehension and custody pending

determination

- evaluation is not limited by *Terry* considerations. <u>RCW</u> Search incident to civil detention for mental health 71.05.150(4)(b).
 - <u>officer from immediate harm while he completes his</u> In Terry stop, only purpose for search is to protect investigation.
- primary purpose of protecting, not police officer, but affected individual and others who may come into Civil detention for mental health evaluation has contact with him while rendering aid.

RCW 71.05.150(4)(b).
The "Exigency" Exception

- Derives from the police officers' investigatory function; ۲
- Allows officers to enter a home without a warrant if they have:
- probable cause to believe that a crime has been or is being committed, and
- prevent ... the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly a reasonable belief that their entry is "necessary to frustrating legitimate law enforcement efforts."

<u>Cir.1984) (en banc).</u>

The "Emergency Aid" Exception

- Stems from the police officers' "community caretaking function"
- Allows them "to respond to emergency situations" that threaten life or limb
- This exception does "not derive from police officers' function as criminal investigators."

United States v. Cervantes, 219 F.3d 882, 889 (9th Cir.2000).

Search associated with emergency civil commitment

- exercise of police community caretaking function. <u>requirement, which permits warrantless search in</u> Falls under "emergency exception" to warrant RCW 71.05.150(4)(b). State v. Dempsey, 88 <u>Wash.App. 918 (1997)</u>
- and objectively, by perceived need to render aid. Must be actually motivated, both subjectively
- Primary motivation of search must not be to arrest and seize evidence.

Use of Force in Mental Health Detentions

RCW 9A.16.020

<u>Use of Force – When Lawful</u>

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

:

person from committing an act dangerous to any person, mentally ill, mentally incompetent, or mentally disabled or in enforcing necessary restraint for the protection or restoration to health of the person, during such period only as is necessary to obtain legal authority for the (6) Whenever used by any person to prevent a restraint or custody of the person.

USE OF FORCE STANDARD

effect a particular seizure is reasonable under governmental interests at stake by looking at: the Fourth Amendment, the court considers In determining whether the force used to the nature and quality of the alleged intrusion, and then considers the

USE OF FORCE STANDARD

- threat to the safety of the officers or others, (2) whether the suspect posed an immediate (1) how severe the crime at issue is, and
- arrest or attempting to evade arrest by flight; facts are necessary to account for the totality (3) whether the suspect was actively resisting (4) court is free to consider issues outside the <u>three enumerated above when additional</u> of circumstances in a given case.

Mattos v. Agarano

that he was armed, and victim was tased without husband's arrest while attempting to protect her potential victim of domestic abuse who officers own body and to comply with officer's request that husband intended to harm the officers or threat to the officers, there was no indication <u>excessive force; victim minimally resisted her</u> came to protect constituted constitutionally that she speak to him outside, she posed no Use of taser employed in dart-mode against warning.

Brooks v. City of Seattle

pregnancy before tasing her, applied the taser to driver, car, and she was not physically threatening, and at time indication of being armed and, behind the wheel of her constituted constitutionally excessive force; at no time over the course of less than one minute against driver, Officer's use of taser in drive-stun mode three times did driver verbally threaten the officers, she gave no she no longer posed even a potential threat to the who refused to sign a traffic citation for driving 32 officer, who knew about and considered driver's miles per hour in a 20-mile-per-hour zone, officers' or others' safety.

Glenn v. Washington County

situation, and need only act within reasonable Officers need not avail themselves of the least intrusive means of responding to an exigent range of conduct

Glenn v. Washington County

what other tactics, if any, are available, and if reasonable for purposes of analysis of Fourth there are clear, reasonable and less intrusive ...however, police are required to consider militates against finding the use of force alternatives to the force employed that Amendment excessive force claim.

Glenn v. Washington County

governmental interest that, standing alone, The "desire to resolve quickly a potentially justifies the use of force that may cause dangerous situation is not the type of serious injury."

Young v. Los Angeles County

governmental interest in the use of significant others, it will not, without more, give rise to a When a suspect's disobedience of a police immediate or otherwise, to the officer or noncompliance that creates a minimal disturbance and indicates no threat, force reasonable under the Fourth officer takes the form of passive

Amendment.

Bryan v. McPherson

committed a crime or who poses a threat to the justified by that interest necessarily differs both As the government has an important interest in in degree and in kind from the use of force that psychiatric care, the use of force that may be would be justified against a person who has providing assistance to a person in need of community. U.S.C.A. Const. Amend. 4.

Graham v. Connor, 490 U.S. 386 (1989)

calculus of reasonableness must allow for fact split-second judgments, in circumstances that about amount of force that is necessary in a that police officers are often forced to make "Reasonableness" of particular use of force are tense, uncertain and rapidly evolving, reasonable officer on the scene, and the must be judged from perspective of particular situation.

Use of Force Considerations

- The severity of the crime or other circumstances to which the officers were responding;
- Whether the plaintiff posed an immediate threat to the safety of the officers or to others;
 - Whether [suspect] was actively resisting arrest or attempting to evade arrest by flight;
- The amount of time and any changing circumstances during which [officer] had to determine the type and amount of force that appeared to be necessary;
 - The availability of alternative methods to subdue The type and amount of force used; and [suspect].

CONCLUSION

- Rely upon the law and procedures
- Use common sense.
- Treat people with dignity and respect. •

Use of Force

Supporting Documentation:

Police Legal Advisor Briefing for 2013 In-Service Training

Purpose:

The City Attorney's Office plays an active role in the training of Spokane Police Department members via the Police Legal Advisor

CASE LAW UPDATE 2013

KEY REVIEW ITEMS:

Use of Force:

- 1. Use of force case law- what must guide your decision making and be documented in each and every use of force report?
- 2. What "level of force" does the 9th Circuit Court of Appeals consider the Taser in dart mode and pepper spray?
 - a. Intermediate, significant level of force.
- 3. How should we refer to bean bag shotgun deployment, 40 mm baton rounds, etc?
 - a. Control devices....not "less lethal."

Miranda:

- 1. A request for an attorney requires an officer to do what?
 - a. Stop the interrogation.
 - b. If the suspect wishes to speak to the attorney at that time, you must make a reasonable effort to put the suspect in contact with an attorney.
- 2. How about a detective trying to follow up on a case where the suspect requested an attorney while talking with the arresting officer; can the detective attempt to get another waiver of Miranda?
 - a. No.
 - b. How does the detective know if the suspect requested an attorney?
 - i. Include in the arrest report.
 - ii. Detectives, inquire whether the suspect made any such request; in cases of suspect reinitiating contact, ask if they were provided an opportunity to speak with an attorney and if not, you may not be able to continue until they speak with an attorney.
- 3. What does the invocation of the right to silence require officers to do?
 - a. Stop the interrogation.
 - b. May reinitiate contact after a significant time lapse (2 hours was enough in a previous case).
 - c. Must get a valid waiver.

Search Incident to arrest:

- 1. What must happen before conducting a search incident to arrest?
 - a. Custodial arrest, State V. O'Neill.
 - i. You are under arrest.
 - ii. Handcuffed.
 - iii. Advised of right to counsel.
- 2. Search must be done when?

- a. As soon as it is safe enough to do it. If compliant, immediately conduct a complete search of their person and personal items immediately under their control at the time of arrest.
- b. DO NOT put them in a car and start searching their stuff!

SEARCH WARRANTS

Bravo v. City of Santa Maria (CA) 9th Circuit, (April 2012 LED)

Summary of the case:

- 1. Officers conducted a "nighttime" search warrant service, utilizing a SWAT team at the residence of Hope and Javier Bravo.
- 2. The affiant detective obtained a search warrant to search for weapons suspected to have been used in a drive-by shooting and stored in the residence by their son Javier Jr.
- 3. "Based on information from a number of informants and other information, the detective prepared an affidavit in support of multiple location gang association warrant" which was based on the belief that several individuals were "suspected of harboring weapons and evidence" related to the shooting, one of those suspects was Javier Jr.
- 4. The detective could not recall if he observed on a criminal history check that Javier Jr. was still in prison on recent conviction and failed to include this information in the search warrant affidavit.

Question: Was that a material omission where the detective admitted to obtaining the criminal history but that he could not recall seeing that the suspect was still in custody and therefore could not have been involved in hiding weapons or evidence?

Question: Does a local RMS check tell you if your suspect is in custody?

The result of this case was the reversal of the U.S. District Court grant of summary judgment to the LE defendants; remand to District Court for trail on the "judicial deception" issue and for other issues not addressed in the LED.

Note: The use of a "nighttime" SWAT warrant service (0530 hours) is also an issue in this case. It is recommended that if such "nighttime" service is necessary, in static investigations such as this (between the hours of 2200 and 0600) that justification and request should be included in the affidavit.

Messerschmidt v. Millender, US Supreme Court, (June 2012 LED)

Previously the 9th Circuit ruled that officers that served a search warrant for evidence of firearms and gang affiliation, that was reviewed by a Sgt, a Lt. and a deputy prosecutor before being signed by a state judge, were not entitled to qualified immunity, involving a 1983 4th Amendment violation claim. The 9th Circuit's ruled that any reasonable officer should have recognized that the warrant was deficient and not supported by probable cause.

The US Supreme Court overturned the 9th Circuit (yet again) finding in a 6-3 ruling that the officers were entitled to qualified immunity. The court explained the following: "Where the alleged 4th Amendment violation involves a search or seizure pursuant to a warrant, the fact that a neutral magistrate has issued a warrant is the clearest indication that the officers acted in an objectively reasonable manner, or in objective good faith...The court has recognized an exception allowing suit when it is obvious that no reasonably competent officer would have concluded that a warrant should issue...The threshold for establishing this exception is high...This case does not fall within that narrow exception." This ruling did not address whether the search warrant affidavit established probable cause to support the broad search. The court only addressed whether the officers were entitled to qualified immunity. The facts that the warrant was reviewed by two supervisors, a prosecutor and signed by a judge were important in the court's finding in favor of qualified immunity.

Directives for SPD officers when constructing search warrants:

- 1. Identify clearly the crime, the location or item to be searched, and the evidence to be seized, and ensure that there is a clear nexus linking all three items in the affidavit.
- 2. Ensure that the affidavit and search warrant have identical descriptions of locations or items to be searched and of the evidence to be seized.
- 3. Have the affidavit and search warrant reviewed by a supervisor.
- 4. If the officer or department supervisor is concerned about whether there is sufficient probable cause or some other issue in the warrant, seek review from a prosecutor, prior to presenting the warrant to a judge.

State v. Lyons, Washington State Supreme Court, (June 2012 LED)

Summary of the case:

- 1. A detective applied for a search warrant for a marijuana growing operation, based exclusively on an informant's statement.
- 2. In the affidavit the detective stated that "within the last 48 hours a reliable and confidential source of information contacted detectives and stated he/she had observed narcotics, specifically marijuana, being grown indoors as the listed address." The CI statement included additional information about the identity of the suspect and a description of what the growing marijuana looked like.
- 3. The CI was deemed by the court to be credible.
- 4. The detective obtained a search warrant and located over 200 plants upon serving the search warrant.

Question: Can probable cause be established exclusively based on information from a CI?

Question: What must be established about the CI in order to establish probable cause?

Question: What is the problem with the CI's statement as stated by the detective in the affidavit or is there one?

The result was a reversal of the Div III ruling which found that the search warrant was valid.

State v. Campbell Div. II Dec. 2011, (April 2012 LED)

Summary of the case:

1. Officers set-up a controlled buy of ecstasy using an informant. Suspect arrived in a vehicle occupied by three other people. During negotiations with the CI the suspect was heard by officers sitting near by saying the pills were in the vehicle and he would need to consult with his partner. Suspect was seen walking to and from the car to confer with the passengers. CI was not able to complete the sale.

2. Officers conducted a felony stop on the vehicle shortly after it departed based on information that the suspect might be armed. The defendant Campbell was the only female in the vehicle and was seated in the front passenger seat. She left her purse on the floorboard when exiting the vehicle.

3. Officers sought a search warrant for the vehicle and its contents. While waiting for the warrant the occupants were detained. Campbell asked officers for her purse so she could leave. Officers denied her request. From the time of the initial stop, it took two hours to obtain the warrant.

Question: Was there probable cause to obtain a search warrant for the vehicle?

Question: Was there probable cause to detain all three occupants of the vehicle?

Question: Can we detain a vehicle pending the application for a search warrant

Question: Would Campbell's purse be considered part of the vehicle or an extension of her person?

The court said that there are circumstances where probable cause may exist for a search of an individual's property even though officers do not have equivalent probable cause that the owner of the property is involved in the crime. What could be some examples of that? TERRY STOPS

State v. Quezadas-Gomez, Div II, (June 2012 LED)

Summary of the case:

- 1. Over the course of a few days, a CI conducted multiple controlled buys from a subject known to the CI as "El Gordo" and the suspect was observed driving a specific vehicle during the controlled buys.
- 2. Nine days after the controlled buys, the officer working with that CI was on patrol and observed El Gordo driving the same vehicle.
- 3. The officer stopped the car "for the purpose of identifying [the driver] as a suspect in [the drug] investigation."
- 4. The officer identified the suspect; conducted additional controlled buys; and identified the suspect coming from his residence to one of the controlled buys.
- 5. The officer obtained a search warrant for the suspect's residence.

Question: Was the traffic stop a pre-text stop?

Question: Why? What level of suspicion or reason did the officer have justifying the stop?

Directive for SPD officers when conducting a "stop and ID."

- 1. The requesting officer should advise the unit making the stop of the reasonable suspicion or probable cause that supports the stop.
- 2. The requesting officer that has the R.S. or P.C. should join on the stop or be otherwise immediately available to the contact officer should any issue arise.
- 3. The officer making the stop should request any clarifying info on the reason for stop if that was not provided to the officer at the time of the request.

State v Young Div II, (July 2012 LED)

Summary of the case:

- 1. Officer observed Young in Safeway and described her behavior as "suspicious" because when she saw him she quickly exited the store.
- 2. Officer stopped Young outside the store and asked for her name which she voluntarily gave but denied giving her date of birth and had no identification. Young left when the officer told her she was free to leave.
- 3. Officer contacted a second officer near the store and conducted a warrant check on Young which came back clear.
- 4. Both officers observed Young go behind a nearby closed business while talking on her cell phone.
- 5. Officers responded to Young's location in separate vehicles and contacted her both standing 5 ft away.
- 6. Young stated she was on her way to a near-by trailer park.
- 7. Officers testified that they suspected Young was lying about her name but conceded that she had not broken any laws. Officer asked Young for the last four digits of her Social Security number which she gave in reverse order.

- 8. After showing the officers the contents of her bag to prove she had not shoplifted she walked away.
- 9. Officers did a warrant search using the Social Security number and discovered Young had a warrant. Officers had lost sight of Young by this time but later found her in a bar and arrested her. In a search of her purse they found meth and charged her for pcs.

Question: Was the initial contact with Young outside Safeway a seizure?

Question: Is it criminal for someone to refuse to identify themselves?

Question: Was the second contact a lawful Terry stop?

Even though the officers discovered the warrant and arrested Yong after the second contact, the courts applied the exclusionary rule to the entire arrest ruling that the information leading to the knowledge of the warrant was obtained via an unlawful seizure.

DV ORDERS

Osborne v Seymore Div II (August LED)

Summary of the case:

1. A police officer and wife both obtained DV protection orders against each other.

2. The wife's order restrained the officer from any contact with the petitioner and from the petitioner's residence.

3. The officer obtained and order that included "a request for possession of essential personal belongings" (see series of boxes below).

4. None of the boxes on the officer's order were checked.

5. A fellow police officer (sergeant of the DV unit) assisted the officer by conducting a civil stand-by where the officer removed his property from the residence.

6. Sgt. of the DV init was denied qualified immunity and civilly liable for violating the wife's 4th amendment rights.

Question: Where was the failure on the part of the officer?

Question: Was there any significance to the fact that the officer involved was a sergeant in the DV unit?

Directives for SPD officers on a civil standby involving orders:

- 1. Read all orders involved.
- 2. If there is a question contact a supervisor.
- 3. If there is still an unresolved question or issue, direct the parties to court for further clarification.

If conducting a civil stand-by be sure that there is a provision in the order to do so. Domestic violence protection orders contain a series of check boxes with language similar to the following:

Law enforcement shall assist petitioner in obtaining:

 \square Possession of petitioner's \square residence \square personal belongings located at:

 \Box the shared residence \Box respondent's residence \Box other:

Custody of the above-named minors, including taking physical custody for delivery to petitioner (if applicable).

Other:

State v. Sanchez Div III (August 2012 LED)

Sanchez was convicted of residential burglary based on a no-contact order violation. Court rejected the argument that he did not commit burglary in violation of the order because the protected party (his ex-wife) had consented to him being in the residence. Court ruled that only the courts have the authority to amend a DV order and the protected party could not waive the courts authority.

CRIMINAL LAW

Seattle v. Meah Div I (August 2012 LED)

Summary of the case:

- 1. Meah began harassing an 87 year old woman while riding on a city bus. He sat next to her despite her objections not to. He slapped her knee when she tired to ignore him. Meah followed the female when she got off the bus at her usual stop.
- 2. After exiting the bus, Meah continued to follow and try to talk to the woman for two blocks.
- 3. A concerned citizen saw the encounter between Meah and the elderly female; saw that the female appeared afraid, and called the police.

Question: Could this encounter be considered stalking as defined in the RCW?

State v. Shepard Div III (September 2012 LED)

Summary of the case:

- 1. Male and female were involved in a DV where the male threw the female who struck and armoire.
- 2. Male threw female a second time causing her to strike a dresser and child's play pen.
- 3. Female sustained bruising to her face, head, and body.

4. Male was charged with 3rd assault under the subsection (d): "With criminal negligence, causes bodily harm to another person <u>by means of a weapon or</u> other instrument or thing likely to produce bodily harm."

Question: Could the furniture be considered "weapon or other instrument or thing likely to produce bodily harm" for the purposes of 3rd assault?

Question: Would there be any circumstances where a stationary object could fall within the scope of 3^{rd} assault defined by the courts?

SEARCH AND SEIZURE

State v. Jones Div II, (February 2012 LED)

Summary of the case:

- 1. Officer stopped Jones for a traffic infraction.
- 2. When Jones stopped his vehicle he opened the driver's side door.
- 3. Officer observed two pills in the driver's door compartment that he recognized as oxycodone (recognized imprint).
- 4. Jones had no prescription for the pills, stated they belonged to his wife, and identified them as "Percocet".
- 5. Officer arrested Jones, searched his person finding cocaine, and placed him in the patrol vehicle.
- 6. Officer searched the vehicle seizing the oxycodone pills in the door compartment and found more controlled substances.

Question: Were the pills in the door compartment on "open view" or "plain view"?

Question: What would be some examples of exigency making the seizure of items seen in open view lawful?

U.S. v. Pera-Rey 9th Cir. (September 2012 LED)

Summary of the case:

- 1. U.S. Boarder Patrol agent followed a suspected undocumented alien to a house. They observed the male enter the sidewalk gate that leads to the front door. The resident, Pera-Rey opened the front door and directed the male to the side door of the house located inside the carport.
- 2. Viewed from the front, the carport is attached to the left side of the house, has a full right side wall. The side entry door to the residence is located approximately 10 feet into the carport. The driveway to the carport, which has a gate that was closed at the time, is attached to the fence that fully surrounds the house. A passerby would not be able to see that side door to the house during daylight hours.

- 3. Agent went to the carport when he saw the suspect go inside. He found the suspect and another male sanding near the side entry door inside the carport and detained them.
- 4. After waiting for back-up the agents then ordered all occupants out of the house and then searched it without a warrant or consent.

Question: Was entering the carport a violation of curtilage?

Question: Are there situations where officers could justify using an alternate entrance to a residence that would normally not be used by the "casual visitor"?

State V. Salinas, Div II, (October 2012 LED)

Summary of the case:

- 1. A homeless women living near a city park reported to police that she had been raped by a man with a knife.
- 2. A K-9 track led them to where the defendant was lying in a sleeping bag and he matched the description of the suspect given by the victim.
- 3. Salina ran from officers toward the waterfront; he was ordered to lied on the ground and he did not comply; the K-9 was deployed in order to get him to comply; the defendant then complied with the order to lie on the ground; the officers handcuffed the suspect and then removed several ID cards from his person, eventually learning his identity.
- 4. Dispatch advised that he had a felony warrant for his arrest.
- 5. The officers transported him to the station to be interviewed and there they took his clothes for lab testing and evidence in the rape case (without a warrant).
- 6. He was later booked into jail.

Question: Must a custodial arrest precede a search incident to arrest?

Question: Was it a custodial arrest at the point where the officers removed the ID from Salinas's person?

Question: What would the best procedure to ensure that it was clearly a custodial arrest?

Question: Was the warrantless seizure of the clothing at the station lawful?

Dahlia V. Rodriguez, 9th Circuit (Jan 2013 LED)

Summary of case:

- 1. Officers responded to a domestic shooting involving a fellow officer.
- 2. The victim female was shot in the jaw by her husband (a deputy sheriff).
- 3. The suspect "voluntarily submitted to custody as soon as officers arrive at the scene" and he confessed.

- 4. The officers are being sued for:
 - a. Contributing to the victim's death for unreasonably delaying transport from the scene (as much as 12 minutes) in the hope that they could get a statement from her. *SPD-don't interfere with life saving activity*.
 - b. Violating the 4th Amendment rights of certain non-suspect relatives of the shooting for detaining them for 4 hours while officers were obtaining a search warrant.
 - c. Using excessive force by "pepper spraying, baton-striking, and handcuffing one of those relatives solely because he was disobeying an order not to try and rejoin his family."

Question: Can we detain witnesses?

Question: Was there any exigent circumstances or an emergency in this case?

Question: Hypothetical- What if the suspect had fled and his location was unknown, could you detain the witnesses?

See the American Law Institute Model Code of Pre-Arraignment Procedure, for further discussion on witness detention.

CASE LAW UPDATE

KEY REVIEW ITEMS:

Use of Force:

- 1. Use of force case law- what must guide your decision making and be documented in each and every use of force report?
 - a. Did the suspect pose an immediate threat of harm to officers or others?
 - b. What was the severity of the crime?
 - c. Was the suspect actively resisting arrest or attempting to flee?
- 2. What "level of force" does the 9th Circuit Court of Appeals consider the Taser in dart mode and pepper spray?
 - a. Intermediate, significant level of force.
- 3. How should we refer to bean bag shotgun deployment, 40 mm baton rounds, etc?
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Miranda:

- 1. A request for an attorney requires an officer to do what?
 - a. Stop the interrogation.
 - b. If the suspect wishes to speak to the attorney at that time, you must make a reasonable effort to put the suspect in contact with an attorney.
- 2. How about a detective trying to follow up on a case where the suspect requested an attorney while talking with the arresting officer; can the detective attempt to get another waiver of Miranda?
 - a. No.
 - b. How does the detective know if the suspect requested an attorney?
 - i. Include in the arrest report.
 - ii. Detectives, inquire whether the suspect made any such request; in cases of suspect reinitiating contact, ask if they were provided an opportunity to speak with an attorney and if not, you may not be able to continue until they speak with an attorney.
- 3. What does the invocation of the right to silence require officers to do?
 - a. Stop the interrogation.
 - b. May reinitiate contact after a significant time lapse (2 hours was enough in a previous case).
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Search Incident to arrest:

- 1. What must happen before conducting a search incident to arrest?
 - a. Custodial arrest, State V. O'Neill.
 - i. You are under arrest.

- ii. Handcuffed.
- iii. Advised of right to counsel.
- 2. Search must be done when?
 - a. As soon as it is safe enough to do it. If compliant, immediately conduct a complete search of their person and personal items immediately under their control at the time of arrest.
 - b. DO NOT put them in a car and start searching their stuff!

SEARCH WARRANTS

Bravo v. City of Santa Maria (CA) 9th Circuit, (April 2012 LED)

Summary of the case:

- 1. Officers conducted a "nighttime" search warrant service, utilizing a SWAT team at the residence of Hope and Javier Bravo.
- 2. The affiant detective obtained a search warrant to search for weapons suspected to have been used in a drive-by shooting and stored in the residence by their son Javier Jr.
- 3. "Based on information from a number of informants and other information, the detective prepared an affidavit in support of multiple location gang association warrant" which was based on the belief that several individuals were "suspected of harboring weapons and evidence" related to the shooting, one of those suspects was Javier Jr.
- 4. The detective could not recall if he observed on a criminal history check that Javier Jr. was still in prison on recent conviction and failed to include this information in the search warrant affidavit.

Question: Was that a material omission where the detective admitted to obtaining the criminal history but that he could not recall seeing that the suspect was still in custody and therefore could not have been involved in hiding weapons or evidence?

Answer: YES. Just because the officer failed to do his job, does not change the fact that this was material to the case and should have been included in the search warrant affidavit.

Question: Does a local RMS check tell you if your suspect is in custody?

Answer: Only on local charges, if they are in state prison the RMS return will indicate that the suspect is "not in custody."

The result of this case was the reversal of the U.S. District Court grant of summary judgment to the LE defendants; remand to District Court for trail on the "judicial deception" issue and for other issues not addressed in the LED.

Note: The use of a "nighttime" SWAT warrant service (0530 hours) is also an issue in this case. It is recommended that if such "nighttime" service is necessary, in static investigations such as this (between the hours of 2200 and 0600) that justification and request should be included in the affidavit.

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Directives for SPD officers when constructing search warrants:

- 1. Identify clearly the crime, the location or item to be searched, and the evidence to be seized, and ensure that there is a clear nexus linking all three items in the affidavit.
- 2. Ensure that the affidavit and search warrant have identical descriptions of locations or items to be searched and of the evidence to be seized.
- 3. Have the affidavit and search warrant reviewed by a supervisor.
- 4. If the officer or department supervisor is concerned about whether there is sufficient probable cause or other questions related to the validity of the warrant, seek review from a prosecutor, prior to presenting the warrant to a judge.

State v. Lyons, Washington State Supreme Court, (June 2012 LED)

Summary of the case:

1. A detective applied for a search warrant for a marijuana growing operation, based exclusively on an informant's statement.

- 2. In the affidavit the detective stated that "within the last 48 hours a reliable and confidential source of information contacted detectives and stated he/she had observed narcotics, specifically marijuana, being grown indoors as the listed address." The CI statement included additional information about the identity of the suspect and a description of what the growing marijuana looked like.
- 3. The CI was deemed by the court to be credible.
- 4. The detective obtained a search warrant and located over 200 plants upon serving the search warrant.

Question: Can probable cause be established exclusively based on information from a CI?

Answer: Yes, but it is recommended to corroborate as much information as possible.

Question: What must be established about the CI in order to establish probable cause?

Answer:
1. The "basis of knowledge (i.e. the affidavit must show the CI's first-hand knowledge about the current presence of the items sought)" and;
2. "The CI's veracity (i.e. the affidavit must show the CI's credibility, as shown through a track record of providing criminal leads through proof that the CI is giving information against his or her penal interest, or otherwise demonstrates credibility.) "

(State v. Jackson, 1984)

Question: What is the problem with the CI's statement as stated by the detective in the affidavit or is there one?

Answer: The statement "does not provide any information about when the CI made his or her observation."

The result was a reversal of the Div III ruling which found that the search warrant was valid.

State v. Campbell Div. II Dec. 2011, (April 2012 LED)

Summary of the case:

1. Officers set-up a controlled buy of ecstasy using an informant. Suspect arrived in a vehicle occupied by three other people. During negotiations with the CI the suspect was heard by officers sitting nearby saying the pills were in the vehicle and he would need to consult with his partner. Suspect was seen walking to and from the car to confer with the passengers. CI was not able to complete the sale.

2. Officers conducted a felony stop on the vehicle shortly after it departed based on information that the suspect might be armed. The defendant Campbell was the only female in the vehicle and was seated in the front passenger seat. She left her purse on the floorboard when exiting the vehicle.

3. Officers sought a search warrant for the vehicle and its contents. While waiting for the warrant the occupants were detained. Campbell asked officers for her purse so she could leave. Officers denied her request. From the time of the initial stop, it took two hours to obtain the warrant.

Question: Was there probable cause to obtain a search warrant for the vehicle?

Answer: Yes, The Officers overheard the CI negotiating with the suspect who said the pills were in the car.

Question: Was there probable cause to detain all three occupants of the vehicle?

Answer: Court did not address this issue but the trial court ruled Campbell's detainment was not supported by probable cause. What the courts might have considered is that the suspect was consulting with another passenger in the vehicle but was unable to determine which passenger that was.

Question: Can we detain a vehicle pending the application for a search warrant?

Answer: Yes, court stated same rules for detaining a residence applies to a vehicle as long as the duration of detainment is reasonable.

Question: Would Campbell's purse be considered part of the vehicle or an extension of her person?

Answer: The court rejected Campbell's argument that the purse was an extension of her person, that she sought to preserve as private, therefore not subject to the warrant (State v. Worth). The court recognizes that the purse obviously belonged to Campbell but the distinction is that the purse fell within the scope of the warrant. Officers had PC for the vehicle and its contents. Officers knew that another occupant was a "partner" in the sale. Also, the purse ceased to be an extension of Campbell's person when she left it in the car.

The court said that there are circumstances where probable cause may exist for a search of an individual's property even though officers do not have equivalent probable cause that the owner of the property is involved in the crime. What could be some examples of that?

TERRY STOPS

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Summary of the case:

- 1. Over the course of a few days, a CI conducted multiple controlled buys from a subject known to the CI as "El Gordo" and the suspect was observed driving a specific vehicle during the controlled buys.
- 2. Nine days after the controlled buys, the officer working with that CI was on patrol and observed El Gordo driving the same vehicle.
- 3. The officer stopped the car "for the purpose of identifying [the driver] as a suspect in [the drug] investigation."
- 4. The officer identified the suspect; conducted additional controlled buys; and identified the suspect coming from his residence to one of the controlled buys.
- 5. The officer obtained a search warrant for the suspect's residence.

Question: Was the traffic stop a pre-text stop?

Answer: No.

Question: Why? What level of suspicion or reason did the officer have justifying the stop?

Answer: The officer had probable cause to arrest the suspect for DCS. The traffic stop and limited detention was less intrusive than an actual arrest, therefore it was valid. The officer did not utilize another minor infraction to conduct an investigation that the officer lacked reasonable suspicion to conduct.

Directive for SPD officers when conducting a "stop and ID."

- 1. The requesting officer should advise the unit making the stop of the reasonable suspicion or probable cause that supports the stop.
- 2. The requesting officer that has the R.S. or P.C. should join on the stop or be otherwise immediately available to the contact officer should any issue arise.
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Summary of the case:

- 1. Officer observed Young in Safeway and described her behavior as "suspicious" because when she saw him she quickly exited the store.
- 2. Officer stopped Young outside the store and asked for her name which she voluntarily gave but denied giving her date of birth and had no identification. Young left when the officer told her she was free to leave.
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- 4. Both officers observed Young go behind a nearby closed business while talking on her cell phone.
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- 6. Young stated she was on her way to a near-by trailer park.
- 7. Officers testified that they suspected Young was lying about her name but conceded that she had not broken any laws. Officer asked Young for the last four digits of her Social Security number which she gave in reverse order.
- 8. After showing the officers the contents of her bag to prove she had not shoplifted she walked away.
- 9. Officers did a warrant search using the Social Security number and discovered Young had a warrant. Officers had lost sight of Young by this time but later found her in a bar and arrested her. In a search of her purse they found meth and charged her for pcs.

Question: Was the initial contact with Young outside Safeway a seizure?

Answer: No, asking for identification alone does not raise a police encounter into a seizure (Harrington).

Question: Is it criminal for someone to refuse to identify themselves?

Answer: No, except for traffic violations, we cannot arrest someone for refusing to identify themselves. This is not obstructing.

Question: Was the second contact a lawful Terry stop?

Answer: No, other than Young being uncooperative or evasive, there was no evidence to support Young was involved in any criminal activity.

Even though the officers discovered the warrant and arrested Yong after the second contact, the courts applied the exclusionary rule to the entire arrest ruling that the information leading to the knowledge of the warrant was obtained via an unlawful seizure.

DV ORDERS

Osborne v Seymore Div II (August LED)

Summary of the case:

1. A police officer and wife both obtained DV protection orders against each other.

2. The wife's order restrained the officer from any contact with the petitioner and from the petitioner's residence.

3. The officer obtained and order that included "a request for possession of essential personal belongings" (see series of boxes below).

4. None of the boxes on the officer's order were checked.

5. A fellow police officer (sergeant of the DV unit) assisted the officer by conducting a civil stand-by where the officer removed his property from the residence.

6. Sgt. of the DV init was denied qualified immunity and civilly liable for violating the wife's 4th amendment rights.

Question: Where was the failure on the part of the officer?

Answer: He did not read the order, apparently, and failed to see that the court had not authorized such a stand-by.

Question: Was there any significance to the fact that the officer involved was a sergeant in the DV unit?

Answer: Yes, both were significant in finding against qualified immunity. He was one, a supervisor, and two, in a unit where officers should be very familiar with DV related issues.

Directives for SPD officers on a civil standby involving orders:

- 1. Read all order involved.
- 2. If there is a question contact a supervisor.
- 3. If there is still an unresolved question or issue, direct the parties to court for further clarification.

If conducting a civil stand-by be sure that there is a provision in the order to do so. Domestic violence protection orders contain a series of check boxes with language similar to the following:

Law enforcement shall assist petitioner in obtaining:

 \square Possession of petitioner's \square residence \square personal belongings located at:

 \Box the shared residence \Box respondent's residence \Box other:

- Custody of the above-named minors, including taking physical custody for delivery to petitioner (if applicable).
- Other:

State v. Sanchez Div III (August 2012 LED)

Sanchez was convicted of residential burglary based on a no-contact order violation. Court rejected the argument that he did not commit burglary in violation of the order because the protected party (his ex-wife) had consented to him being in the residence. Court ruled that only the courts have the authority to amend a DV order and the protected party could not waive the courts authority.

CRIMINAL LAW

Seattle v. Meah Div I (August 2012 LED)

Summary of the case:

- 1. Meah began harassing an 87 year old woman while riding on a city bus. He sat next to her despite her objections not to. He slapped her knee when she tired to ignore him. Meah followed the female when she got off the bus at her usual stop.
- 2. After exiting the bus, Meah continued to follow and try to talk to the woman for two blocks.
- 3. A concerned citizen saw the encounter between Meah and the elderly female; saw that the female appeared afraid, and called the police.

Question: Could this encounter be considered stalking as defined in the RCW?

Answer: No, the courts cited the stalking statute which says the suspect must "repeatedly" follow or harass the victim. There was no break in contact between Meah and the female thus could not be considered to be "repeated" conduct required by the statute.

State v. Shepard Div III (September 2012 LED)

Summary of the case:

- 1. Male and female were involved in a DV where the male threw the female who struck and armoire.
- 2. Male threw female a second time causing her to strike a dresser and child's play pen.
- 3. Female sustained bruising to her face, head, and body.
- 4. Male was charged with 3rd assault under the subsection (d): "With criminal negligence, causes bodily harm to another person <u>by means of a weapon or</u> other instrument or thing likely to produce bodily harm."

Question: Could the furniture be considered "weapon or other instrument or thing likely to produce bodily harm" for the purposes of 3rd assault?

Answer: No, there have been two cases now, including this one, where the courts have ruled that: "Only assaults perpetrated with an object likely to produce harm by its nature or by circumstances fall within the subsection...Thus, an 'instrument or thing likely to produce bodily harm must be similar to a weapon"

(State v Marohl WA Supreme Court Feb 11' LED, object was a casino floor).

Question: Would there be any circumstances where a stationary object could fall within the scope of 3^{rd} assault defined by the courts?

SEARCH AND SEIZURE

State v. Jones Div II, (February 2012 LED)

Summary of the case:

1. Officer stopped Jones for a traffic infraction.

- 2. When Jones stopped his vehicle he opened the driver's side door.
- 3. Officer observed two pills in the driver's door compartment that he recognized as oxycodone (recognized imprint).
- 4. Jones had no prescription for the pills, stated they belonged to his wife, and identified them as "Percocet".
- 5. Officer arrested Jones, searched his person finding cocaine, and placed him in the patrol vehicle.
- 6. Officer searched the vehicle seizing the oxycodone pills in the door compartment and found more controlled substances.

Question: Were the pills in the door compartment on "open view" or "plain view"?

Answer: Open view, the officer observed the contraband from a non-constitutionally protected area outside of the vehicle. Although the observation was not a search, probable cause alone as evidence of the crime does not permit the seizure of those items inside a constitutionally protected area without a search warrant or emerging exigent circumstances making the search warrant application process impractical.

Question: What would be some examples of exigency making the seizure of items seen in open view lawful?

U.S. v. Pera-Rey 9th Cir. (September 2012 LED)

Summary of the case:

- 1. U.S. Boarder Patrol agent followed a suspected undocumented alien to a house. They observed the male enter the sidewalk gate that leads to the front door. The resident, Pera-Rey opened the front door and directed the male to the side door of the house located inside the carport.
- 2. Viewed from the front, the carport is attached to the left side of the house, has a full right side wall. The side entry door to the residence is located approximately 10 feet into the carport. The driveway to the carport, which has a gate that was closed at the time, is attached to the fence that fully surrounds the house. A passerby would not be able to see that side door to the house during daylight hours.
- 3. Agent went to the carport when he saw the suspect go inside. He found the suspect and another male sanding near the side entry door inside the carport and detained them.
- 4. After waiting for back-up the agents then ordered all occupants out of the house and then searched it without a warrant or consent.

Question: Was entering the carport a violation of curtilage?

Answer: Yes, the side door to the home was viewed by the court as an area not open to "casual visitors".

Question: Are there situations where officers could justify using an alternate entrance to a residence that would normally not be used by the "casual visitor"?

Answer: Yes, there are numerous circumstances that would justify an alternate approach; officer safety, no response at the primary entrance, exigency, etc.

State V. Salinas, Div II, (October 2012 LED)

Summary of the case:

- 1. A homeless women living near a city park reported to police that she had been raped by a man with a knife.
- 2. A K-9 track led them to where the defendant was lying in a sleeping bag and he matched the description of the suspect given by the victim.
- 3. Salina ran from officers toward the waterfront; he was ordered to lied on the ground and he did not comply; the K-9 was deployed in order to get him to comply; the defendant then complied with the order to lie on the ground; the officers handcuffed the suspect and then removed several ID cards from his person, eventually learning his identity.
- 4. Dispatch advised that he had a felony warrant for his arrest.
- 5. The officers transported him to the station to be interviewed and there they took his clothes for lab testing and evidence in the rape case (without a warrant).
- 6. He was later booked into jail.

Question: Must a custodial arrest precede a search incident to arrest?

Answer: Yes, State V. O'Neill.

Question: Was it a custodial arrest at the point where the officers removed the ID from Salinas's person?

Answer: Yes, according to the court of appeals.

Question: What would the best procedure to ensure that it was clearly a custodial arrest?

Answer: Tell the suspect he is under arrest and of his right to an attorney.

Question: Was the warrantless seizure of the clothing at the station lawful?

Answer: Yes, as a part of a search incident to arrest. Clearly identify such in a report as a search for evidence of the crime of arrest, incident to arrest. If there is any doubt or concern, a search warrant is always the safest approach.

Dahlia V. Rodriguez, 9th Circuit (Jan 2013 LED)

Summary of case:

- 1. Officers responded to a domestic shooting involving a fellow officer.
- 2. The victim female was shot in the jaw by her husband (a deputy sheriff).
- 3. The suspect "voluntarily submitted to custody as soon as officers arrive at the scene" and he confessed.
- 4. The officers are being sued for:
 - a. Contributing to the victim's death for unreasonably delaying transport from the scene (as much as 12 minutes) in the hope that they could get a statement from her. *SPD-don't interfere with life saving activity*.
 - b. Violating the 4th Amendment rights of certain non-suspect relatives of the shooting for detaining them for 4 hours while officers were obtaining a search warrant.
 - c. Using excessive force by "pepper spraying, baton-striking, and handcuffing one of those relatives solely because he was disobeying an order not to try and rejoin his family."

Question: Can we detain witnesses?

Answer: Not without reasonable suspicion of criminal activity, or "some sort of emergency or exigency to justify forcibly holding non-suspect witnesses for questioning," particularly when the detention is for several hours.

Question: Was there any exigent circumstances or an emergency in this case?

Answer: No. The suspect was in custody and had confessed.

Question: Hypothetical- What if the suspect had fled and his location was unknown, could you detain the witnesses?

Answer: It is not a black and white equation. Several things should be considered:

- 1. Is the crime "ongoing in nature?"
- 2. Does the officer reasonably believe that the witness possesses information material to the investigation?
- 3. Is the officer acting to protect a crime victim?
- 4. Does the suspect pose a significant threat to officers or the public if not swiftly apprehended?

See the American Law Institute Model Code of Pre-Arraignment Procedure, for further discussion on witness detention.