

RESOLUTION NO. 6299

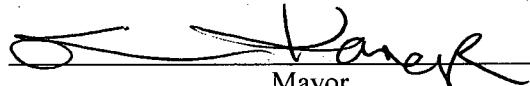
A RESOLUTION TO APPROVE THE UPDATED PHYSICAL FORCE PLAN FOR LINN COUNTY

WHEREAS, according to Senate Bill (SB) 111, the planning authority for Linn County has developed its deadly force plan that addresses each of the elements required by the bill; and

WHEREAS, the Council, having considered the language of SB 111, and the City of Albany being one of the governing bodies having a law enforcement agency that may vote to approve or disapprove the plans.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that the deadly force plan for Linn County as set forth in Attachment "A", is hereby approved.

DATED AND EFFECTIVE THIS 26TH DAY OF FEBRUARY 2014.



Mayor

ATTEST:




City Clerk

Attachment: A

Linn County Deadly Physical Force Plan

DEADLY PHYSICAL FORCE

**Policies and procedures relating to the use of deadly
physical force by law enforcement personnel**

Linn County Use of Deadly Physical Force Planning Authority

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Members of the Planning Authority

Linn County District Attorney, Doug Marteeny, co-chair
Linn County Sheriff, Tim Mueller, co-chair
Oregon State Police, Lt. Dave Mazour
Police Department, Chief Mario Lattanzio, Albany Police Department
Labor Union Representative, Det. Cindy Pichardo, Sweet Home P.D.
Public Member, Andy Trower
Non Voting Member, Sgt. Klint Sheets, Lebanon P.D

Approval History

On August 8, 2013, this Plan was presented and approved in a Public Meeting at the Linn County Sheriff's office.

Later, this Plan was submitted for approval by the governing bodies of the following jurisdictions:

Linn County	Approved (date)
City of Albany.....	Approved (date)
City of Lebanon	Approved (date)
City of Sweet Home.....	Approved (date)

Upon receiving a vote of approval from 2/3 of the above jurisdictions, this Plan was submitted to the Attorney General, who approved the Plan on (date). This is made part of the document after we get the plan approved;

Preamble

The use of deadly physical force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. The purpose of this Plan is not to set the standards for the use of such force, or to be a substitute for agency policy regarding use of force, but rather to provide a framework for a consistent response to an officer's use of deadly physical force that treats the law enforcement officer fairly, and promotes public confidence in the criminal justice system.

Section 1: Administration

- (1) In the event that a member of the planning authority is unable to continue to serve, a replacement shall be appointed as provided in Section 2(1) of Senate Bill 111, Oregon Laws 2007.

- (2) There shall be six voting members of the Planning Authority. The approval of the Plan, elements or revisions thereof, shall be by majority vote.
- (3) The presence of 2/3 of the voting members shall be required in order to hold any vote.
- (4) When this document becomes effective any meeting of a quorum of the voting members of the Planning Authority is subject to Oregon's open meeting law.

Section 2: Applicability of the Plan

- (1) This plan shall be applicable, as set forth herein, to any use of deadly physical force by a peace officer acting in the course of and in furtherance of his/her official duties, occurring within Linn County.

Section 3: Definitions

Agency: The law enforcement organization employing the officer who used deadly physical force.

Plan: Means the final document approved by the Planning Authority, adopted by two-thirds of the governing bodies employing law enforcement agencies, and approved by the Attorney General. Any approved revisions shall become a part of the Plan. Issues related to the revision of this plan are addressed in Section 12 of this plan.

Deadly Physical Force: Means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

Serious Physical Injury: Has the same meaning as "serious physical injury" as defined in ORS 161.015(8).

Physical Injury: Means impairment of physical condition or substantial pain that does not amount to "serious physical injury."

Involved Officer: Means the person whose official conduct, or official order, was the cause in fact of the death of a person. "Involved Officer" also means an officer whose conduct was not the cause in fact of the death, but who was involved in the incident before or during the use of deadly physical force, and this involvement was reasonably likely to expose the officer to a heightened level of stress or trauma.

Preliminary Statements: Those statements provided by involved Officers to supervisors or investigators immediately after a deadly force incident related to officer safety, public safety and necessary information to secure the scene, apprehend others that may be of concern to the investigation, and provide a framework for the investigation.

Section 4: Immediate Aftermath

- (1) When an officer uses deadly physical force, the officer shall immediately take whatever steps are reasonable and necessary to protect the safety of the officer and any member of the public.
 - (a) The officer shall take reasonable measures to preserve life.
 - (b) Immediately after taking such steps, notify his or her agency of the use of deadly physical force.
 - (c) Thereafter, the officer, if able, shall take such steps as are reasonably necessary to preserve the integrity of the scene and to preserve evidence.
 - (d) Upon request, the officer may provide preliminary statements.

Section 5: Serious Physical Injury/Death

When the use of deadly physical force results in death or serious physical injury to any person, in addition to the requirements of Section 4 (1) of this Plan, and notwithstanding agency policy, the following provisions apply:

- (1) Upon the arrival of additional officers, sufficient to manage the scene, each Involved Peace Officer shall be relieved of the above duties set forth in Section 4 (1) of the Plan, and the duties shall be re-assigned to uninvolved police personnel.
- (2) As soon as practicable, each Involved Peace Officer shall leave the scene, as directed by his or her supervisor, and be offered an opportunity for a medical examination. If the officer is not in need of medical treatment, the officer shall be taken to the Agency's office. If requested by the Involved Peace Officer, the officer's union representative shall be notified.
- (3) As soon as practicable, the duty weapon of any peace officer who fired their weapon shall be seized by investigators, and replaced with a substitute weapon, if appropriate.
- (4) Interview of an "Involved Peace Officer":

As used in this section "interview" refers to formal interview of the officer by assigned investigative personnel that occurs within a reasonable time period after the incident and after the officer has had an opportunity to consult with counsel, if so desired.

- (a) The interview of the involved officer(s) who discharged a firearm during a use of deadly physical force incident resulting in death or serious physical injury, shall occur after a reasonable period of time to prepare for the interview and taking into account the emotional and physical state of the officer(s). The interview shall occur no sooner than 48 hours after the incident, unless this waiting period is waived by the officer.

- (b) The waiting period does not preclude an initial on-scene preliminary statement with the officer to assess and make an initial evaluation of the incident.
- (5) For at least 72 hours immediately following an incident in which the use of deadly physical force by a peace officer resulted in the death of a person, a law enforcement agency may not return an Involved Peace Officer to duties that might place the officer in a situation in which the officer has to use deadly force.
 - (a) Officer(s) involved in discharging his or her firearm that results in death or serious physical injury shall immediately be placed on paid administrative leave until such time as sufficient information exists to determine the justification in the use of deadly physical force and that the officer(s) have had an opportunity for mental health counseling.
- (6) In the 6 months following a use of deadly physical force incident that results in a death, the Agency shall offer each Involved Peace Officer a minimum of two opportunities for mental health counseling. The officer shall be required to attend at least one session of mental health counseling.
- (7) As soon as practicable after the arrival of a supervisor, notification shall be made to the District Attorney as provided in Section 8 (I) of this Plan.
 - (a) This provision does not prevent the Agency from requiring additional notification requirements within their respective agency policies.
- (8) The Agency shall designate a representative to make an initial public statement about the incident. Such statement shall include:
 - (a) The time and place of the incident.
 - (b) The condition of any suspect.
 - (c) The nature of the use of deadly physical force.
- (9) Prior to a final determination being made by the District Attorney, the District Attorney and the primary investigative agency shall consult with each other and make a public release of information as is deemed appropriate.

Section 6: Primary Investigative Agency

After consulting with the District Attorney, the Agency shall decide what law enforcement agency will be the primary investigating agency. In the event that the involved officer's own agency will be the primary investigating agency, and the incident resulted in a death, the Agency will promptly make arrangements for at least one investigator from outside the Agency to participate in the investigation.

- (a) In the event that a use of deadly physical force resulting in death or serious physical injury involves officers from multiple jurisdictions, the District Attorney and each involved agency shall consult and agree upon a primary investigative agency.

Section 7: Investigation Protocols

- (1) The investigation, at a minimum, shall consist of:
 - (a) Eyewitness interviews.
 - (b) Evidence collection.
 - (c) Scene documentation.
 - (d) Involved Officer interview(s)
- (2) The investigation shall be documented in written reports.
 - (a) All written reports shall be filed with the investigator's agency, and copies provided to the lead investigative agency, and the Involved Officer's agency.
 - (b) All police reports shall be promptly provided to the District Attorney.

Section 8: District Attorney

- (1) When an incident of the use of deadly physical force by a peace officer occurs, and death or serious physical injury results, the agency shall, as soon as practicable, notify the District Attorney's Office.
 - (a) Notification shall be made to the District Attorney, Chief Deputy, or other senior member of the District Attorney's staff.
- (2) When a use of deadly physical force by an officer occurs, and death or serious physical injury results, the District Attorney, and/or a senior member of his staff will consult with the agency regarding the investigation and implementation of the elements of this plan.
- (3) The District Attorney has the sole statutory and constitutional duty to make the decision on whether to present a matter to a Grand Jury.
 - (a) Preliminary Hearings will not be used as a method of reviewing an officer's use of deadly force.
 - (b) The District Attorney will consult with the investigating agency and make the decision on whether to present the case to a Grand Jury.
 - (c) If the District Attorney decides to present a case to the Grand Jury, the District Attorney shall promptly notify the investigating agency, the involved officer's agency, and the involved officer's representative.

- (1) The timing of the decision will be made by the District Attorney at such time as he has determined that sufficient information is available to competently make the decision.
- (d) If the District Attorney decides that the investigation reveals that the officer's use of deadly force was justified under Oregon law, and that Grand Jury review is unnecessary; the District Attorney shall so notify the Agency, the involved officer, the involved officer's representative, and the public.
- (4) If the use of deadly physical force results in physical injury to someone other than a police officer, upon completion of the investigation all investigative information shall be forwarded to the District Attorney for review.

Section 9: Debriefing and Reporting

- (1) Upon a final determination by the District Attorney, the Agency shall conduct an internal review of the matter according to Agency policy. Such review, at a minimum, shall include a review of the incident by the involved officer.
- (2) Upon the conclusion of the investigation, the announcement by the District Attorney pursuant to Section 8 (3), and the debriefing, the Agency shall complete and submit a report to the Attorney General's Office regarding the use of force.

Section 10: Training, Outreach

- (1) Each law enforcement agency within Linn County shall include in its policy regarding the use of deadly force, a provision regarding engaging members of the community in a discussion regarding the Agency's policies on the use of deadly force, as well as discussions regarding the use of deadly force by the Agency's personnel.
- (2) Each law enforcement agency within Linn County shall provide a copy of this plan to every officer, and provide training to officers on the implementation of the plan.

Section 11: Fiscal Impact

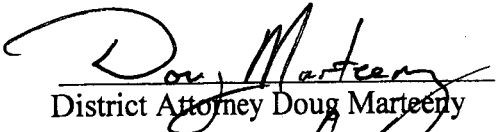
- (1) At the conclusion of each fiscal year following the adoption of the Plan, each agency shall submit to the administrator of the Plan, a report outlining the fiscal impact of each element of the Plan as described in section (a) to (e) of Section 2 (4) of Senate Bill III, Oregon Laws 2007.

Section 12: Plan Revision

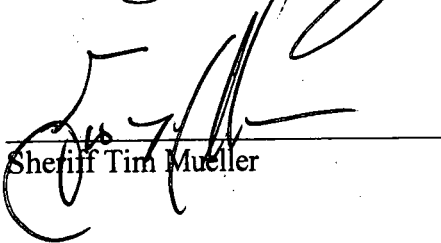
- (1) Beginning January 1, 2014, and each year thereafter, the Planning Authority shall meet at least once to review and discuss the operation of the Plan.

- (2) If a revision of the Plan becomes advisable, the Planning Authority shall meet and discuss such a revision. If the Planning Authority adopts a revision such revision shall be submitted for approval as provided by statute.

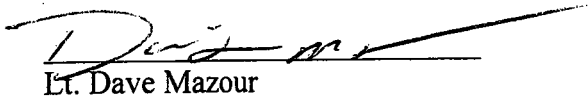
I have reviewed this document and agree to the conditions contained therein. My signature confirms my agency's commitment to participation in these Policies and procedures relating to the use of deadly physical force by law enforcement personnel.


District Attorney Doug Marteeny

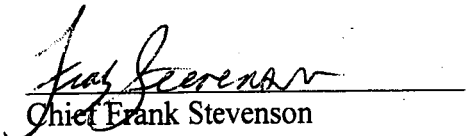
Sept 17, 2013
Date


Sheriff Tim Mueller

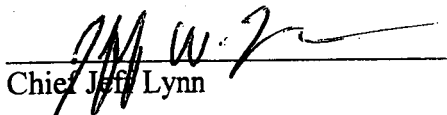
17 SEPT. '13
Date


Lt. Dave Mazour

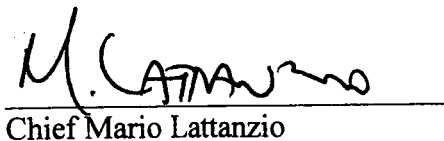
10-23-13
Date


Chief Frank Stevenson

10-23-13
Date


Chief Jeff Lynn

10-16-13
Date


Chief Mario Lattanzio

9-30-13
Date

Albany Police Department Policy

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

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

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force

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Use of Force

that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer is justified in using force upon another person only when and to the extent that the officer reasonably believes it necessary (ORS 161.235):

- (a) To make an arrest or to prevent the escape from custody of an arrested person unless the officer knows that the arrest is unlawful; or
- (b) For self-defense or to defend a third person from what the officer reasonably believes to be the use or imminent use of force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.

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- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 - 1. The subject is violent or physically resisting.
 - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
 - 1. Females who are known to be pregnant
 - 2. Elderly individuals
 - 3. Obvious juveniles
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.

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- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

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. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

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- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

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

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

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- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 WATCH SUPERVISOR RESPONSIBILITY

The Watch Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

Major & Traumatic Incidents

311.1 PURPOSE AND SCOPE

By their very nature, major and traumatic incidents have a significant impact on the resources of the Department, and many times also cause significant personal impact to members of the Department. The first mission of the Department in major and traumatic incidents is to protect the community and its citizens to the best of our ability.

It is a fundamental duty and essential requirement that every Department member be capable of functioning at a high level of effectiveness, sometimes for extended periods of time, during a major or traumatic incident. Notwithstanding this, the Department and all its members have a duty to every member to be as sensitive and supportive as possible to any member who participates in or is affected in any way by a major or traumatic incident.

A Traumatic Response Support Team (TRUST) is available for the support of department members and volunteers as well as professionals from other agencies.

311.2 DEFINITIONS

Major/Traumatic Incident: Any incident involving a Department member where the event(s) has the potential to create significant human distress and can overwhelm one's usual coping mechanisms. These can include, but are not limited to: serious physical injury or death to any person; any discharge of a firearm in the performance of police duties other than during approved training or when dispatching an injured or dangerous animal; any discharge of a firearm resulting in physical injury to anyone; or any situation or condition that poses a significant threat or hazard to the community or that could require the coordination of a multi-agency response.

Serious Physical Injury: Physical injury that creates a substantial risk of death or causes serious and protracted disfigurement, protracted impairment of health, or protracted impairment of the functions of any bodily organ; or any injury that results in loss of consciousness or interruption of pulse or breathing.

Administrative Assignment: May include assignment to non-enforcement duties or administrative leave with pay. Administrative assignment is not disciplinary or judgmental in nature.

Traumatic Response Support Team (TRUST): A group of department members and professionals from other agencies who volunteer to assist law enforcement professionals in the identification and resolution of employee and volunteer concerns, and offer assistance and appropriate resource information to employees and volunteers during times of personal and professional crisis, which may adversely affect an employee's or volunteer's personal or professional well-being or job performance.

311.3 MEMBER'S RESPONSIBILITY

- (a) Members who have been involved in a major incident, whether on or off duty, shall immediately report the nature of the incident and the incident location to the on-duty supervisor and the dispatch center. The on-duty Watch Supervisor will immediately notify a command officer.

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- (b) Members will determine the physical condition of any injured person, render first aid when appropriate, and request any necessary emergency medical aid.
- (c) Members will protect the scene, save hard evidence, and protect weapons for appropriate examination. Such evidence could prove critical if the officer and the Department are later subject to criticism or investigation since the physical evidence may tend to corroborate an account of how the incident occurred. The officer's property will be replaced as soon as practical.
- (d) Members should prepare themselves in advance for the shock of a traumatic incident and the compounding affect of the investigation that follows. Every member must recognize that becoming subject to an investigation is a consequence of the accountability we must demonstrate as a result of the substantial prerogatives society vests in law enforcement officers.
- (e) Written reports of the incident normally will be completed by all members involved and approved before going off duty. Reports will contain information regarding the weapons involved, number of shots fired, persons involved, injuries or damage, names of witnesses, and pertinent information and should detail with specificity the facts and circumstances of the occurrence, including the observations, apprehensions, information, and beliefs of the member.
- (f) Members directly involved in the use of deadly force will generally not write a report. The officer's statement will serve as their report.
- (g) Members are encouraged to seek assistance from the TRUST, the Employee Assistance Program, or other resources of their choosing after experiencing a major or traumatic incident.

311.4 SUPERVISOR'S RESPONSIBILITY

- (a) Supervisors shall be responsible for command of the scene and initial investigation of the incident, including the protection of the scene and all evidence. All unauthorized persons, including police members not required at the scene, will be directed to leave or stay clear of the scene. The scene will be protected until completion of the scene investigation or it is released to another person/agency. The supervisor shall complete appropriate reports before going off duty.
- (b) Supervisors shall insure that a command officer is immediately notified. The TRUST leader, responsible agencies, or additional officers will be notified as well. Other contacts may include the City Attorney, District Attorney, Critical Incident Stress Team, association or union representation, employee's family members, additional officers for handling incoming calls.
- (c) Copies of the supervisor's written report shall be submitted to the Chief, assigned investigators, and Internal Review Board.

311.5 TRAUMATIC RESPONSE SUPPORT TEAM (TRUST) DUTIES

- (a) The Albany Police Department Chaplain will be the TRUST leader. The Chaplain will keep the Chief of Police informed regarding team needs, training needs, and planned events. The Chaplain will be available by pager.
- (b) The team will consist of the Chaplain/leader, non-probationary volunteer members from within the department, and professionals from other agencies as identified by the leader. Team members should be willing to provide updated phone numbers where they can normally be contacted if needed.

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- (c) All team members will receive in-house training as determined by the leader. Additional identified training such as Critical Incident Stress Management will be offered to department team members as staffing and budgeting allows.
- (d) Employees, volunteers, and professionals from other agencies can access the TRUST by personal contact with a team member, requesting assistance through a supervisor, or through a third party.
- (e) The team may be utilized at the Chaplain/leader's discretion with the approval of a command officer to facilitate or take part in defusings, debriefings, etc, within the Albany Police Department or for an outside agency.
- (f) Department TRUST members will not normally be considered on-duty unless they have been directed by a supervisor or the TRUST leader to attend a mandatory meeting, training, debriefing, or other planned event. Every attempt will be made to schedule activities during duty time.

311.6 CHIEF OF POLICE OR DESIGNEE'S RESPONSIBILITIES

- (a) Any member directly involved in a major and traumatic incident may be placed on administrative assignment to deal with the emotional impact. This assignment shall be without loss of pay or benefits. An administrative assignment shall not be interpreted to imply or indicate that the member has acted improperly.
- (b) While on administrative assignment, the member shall remain available for official Department interviews and statements regarding the incident. Members will also make themselves available for appointments as requested by the City. It is the Department's desire to assist the officer(s) in their return to full duty. Administrative assignments may be provided to assist the officer(s) in that regard.
- (c) The incident may be investigated by the Oregon State Police or another law enforcement agency selected by the Chief of Police. Qualified investigators within the department will assist as requested by the investigating agency.
- (d) Copies of the investigation report shall be submitted to the Chief of Police.

311.7 INTERNAL INVESTIGATION AND REVIEW BOARD

An Internal Review Board may be convened at the direction of the Chief of Police and/or the City Attorney following completion of any criminal investigation. This board will follow the guidelines in Policy 302 Deadly Force Review.

311.8 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

311.9 PROFESSIONAL SUPPORT

- (a) This policy will provide guidelines on how to constructively support the officer(s) involved in a major and traumatic incident by diminishing their emotional trauma while maximizing the accuracy of the investigation. Extensive field experience has shown that following these guidelines reduces the probability of long-lasting emotional problems resulting from a major and traumatic incident. However, these

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guidelines are not meant to be rigid protocol. It is important to apply these guidelines in a flexible manner that is appropriate to the situation.

- (b) Show concern and provide appropriate physical and mental first aid.
- (c) The officer should briefly explain the circumstances to the supervisor. This explanation should be sufficient to identify evidence at the scene, if there are any additional suspects, witnesses, or other necessary information for processing the scene.
- (d) Create a psychological break by getting the officer away from the immediate scene. The officer should remain with a supportive peer or supervisor.
- (e) Assist the officer in making appropriate arrangements for contacting their families and/or friends.
- (f) As soon as practical, the officer(s) need to be informed of what will occur administratively in the next few hours.
- (g) If the officer's issued firearm is taken as evidence, replace it immediately unless the officer's mental state indicates this is inappropriate.
- (h) Officers should have an uninvolved peer support person or friend of their choice available to them immediately after and during the hours after a major and traumatic incident. Since peer support discussions may not have legally privileged confidentiality, officers should not be discussing the details of the incident with that person.
- (i) If appropriate, officers should be advised to contact their attorney or association representative to safeguard their personal interests.
- (j) The officer should have recovery time before detailed interviewing begins. The interview may occur up to 48 hours after the incident. We are not assisting the District Attorney, the community, our agency, or the officer by insisting on a detailed interview right away if the officer is not emotionally prepared to give an accurate statement. It may be advisable for the officer to re-visit the scene prior to a detailed interview.
- (k) While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.
- (l) The officer is a cooperative witness who also happens to be a crime victim. The interview techniques used should not be the same as used on a recalcitrant criminal suspect.
- (m) All on-scene personnel, dispatchers, or other involved personnel should be observed for signs of emotional distress and provided support as needed by mental health providers or peer support groups.
- (n) Protect the officer from unnecessary or inappropriate contact immediately after the incident and during the recovery period. It may be appropriate to provide an answering machine for the officer to screen his telephone calls.
- (o) The officer(s) may participate in a mandatory confidential interview with a licensed mental health professional, experienced with the law enforcement profession and trauma, prior to returning to duty. This briefing should be held as soon after the incident as practical. Return to duty and/or follow-up sessions should be determined by the mental health professional and the officer.

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- (p) It may be advisable for everybody at the scene, including the dispatcher(s), to have a debriefing with a mental health professional.
- (q) A Department member will be assigned to maintain communications with the involved officer during the administrative leave. The officer, or their family, should be kept informed about the status of the investigation and other relevant information.

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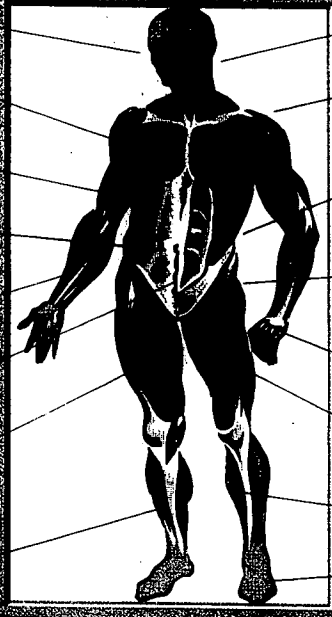
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Lebanon Police Department Policy

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

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

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force

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that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer is justified in using force upon another person only when and to the extent that the officer reasonably believes it necessary (ORS 161.235):

- (a) To make an arrest or to prevent the escape from custody of an arrested person unless the officer knows that the arrest is unlawful; or
- (b) For self-defense or to defend a third person from what the officer reasonably believes to be the use or imminent use of force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.

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- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 - 1. The subject is violent or physically resisting.
 - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
 - 1. Females who are known to be pregnant
 - 2. Elderly individuals
 - 3. Obvious juveniles
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.

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- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

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.

Additionally, a "Use of Force" report form shall be completed and submitted with the reports to the immediate supervisor for review to collect data for purposes of training, resource allocation, analysis and related purposes.

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300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

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

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

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- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.8 USE OF FORCE REVIEW BOARD

The Chief of Police may assemble and convene an internal Use of Force Review Board to investigate the circumstances surrounding any use of force incident and will designate a member of the Board to serve as chairperson.

300.9 ANNUAL REVIEW

Each January the Operations Division Commander will ensure that an annual review of all 'Use of Force Reports' for the previous calendar year is conducted. The intent of the review will be to collect data for purposes of training, resource allocation, analysis and related purposes. Specific detail including items such as officer names, case numbers and location of occurrence are not needed for this purpose and therefore will not be part of this process.

Deadly Force Review

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Lebanon Police Department to review the use of 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 Lebanon 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 REVIEW BOARD

The Lebanon 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 when the use of deadly force by an employee results in injury or death to a person.

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

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

302.4.1 COMPOSITION OF THE BOARD

The Use of Deadly Force Review Board normally would be comprised of the following persons: Command representative Division Commander Non-administrative supervisor At least one sworn peace officer from an outside law enforcement agency The Chief of Police will designate a member of the Board to serve as chairperson. The chairperson will convene the Use of Deadly Force Review Board as necessary. It will be the responsibility of the division or unit commander of the involved employee(s) to notify the appropriate division commander of any incidents requiring board review. The division or unit commander will also ensure that all relevant reports, documents, and materials are available for consideration and review by the Board.

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Deadly Force Review

302.4.2 RESPONSIBILITIES OF THE BOARD

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

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

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

If it appears that the actions of the employee may result in criminal charges or disciplinary action by the Department, the board will conduct the interviews in accordance with department disciplinary procedures. The board does not have the authority to recommend discipline. The board shall make a finding and such finding will be limited to one of the following: (a) The employee's actions were within department policy and procedures. (b) The employee's actions were in violation of department policy and procedures. A finding will represent the consensus of the board. After the board has concluded, the Board chairperson 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 involved employee's Division Commander for review and appropriate action.

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

Once the board has reached its specific finding, the Division Commander may convene a separate training committee to address training needs and to make recommendations for this department without specific reference to the facts of the incident considered by the board.

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.

310.1.1 DEFINITIONS

Involved officer - An officer whose official conduct, or official order to use deadly physical force, was a cause in fact of the death of a person. As used here, order to use deadly physical force means an order issued to another officer to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident (ORS 181.789(a)).

An officer whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by an officer resulted in the death of a person (ORS 181.789(b)):

- Began before or during the use of the deadly physical force; and
- Was reasonably likely to have exposed the officer to greater stresses or trauma than other officers experienced as a result of their involvement in the incident before or during the use of the deadly physical force.

310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Lebanon Police Department Officer-involved Shooting Protocol and any other regional OIS protocol as established by law 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 or interagency team with the approval of the Chief of Police or a Division Commander.
- (b) A criminal investigation of the involved officers conducted by an outside agency or interagency team.
- (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.

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Officer-Involved Shooting

310.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved officers. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

310.4.1 LEBANON POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Lebanon Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted by this agency or an inter-agency team as designated in the Linn County Officer-Involved Use of Deadly Physical Force Investigation Plan in conjunction with the District Attorney's Office. The investigation team shall include at least one police officer from an outside law enforcement agency (ORS 181.789).

310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Lebanon Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by either this agency or an outside/inter-agency team as is determined appropriate by the Chief of Police in conjunction with the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

310.4.3 LEBANON POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Lebanon Police Department will conduct timely civil and/or administrative investigations.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation	Administrative Investigation
Lebanon Police Department Officer in this Jurisdiction	Lebanon Police Department	Outside Agency as Selected by Chief of Police and District Attorney's Office	Lebanon Police Department Civil Liability Team	Lebanon Police Department Division Commander

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Officer-Involved Shooting

Allied Agency's Officer in this Jurisdiction	Lebanon Police Department	Lebanon Police Department or outside agency as designated by Chief of Police and District Attorney's Office	Involved Officer's Department	Involved Officer's Department
An officer From this department in Another Jurisdiction	Agency where incident occurred	Agency where incident occurred or other agency as designated by occurred jurisdiction policy	Lebanon Police Department Civil Liability Team	Lebanon Police Department Division Commander

310.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

310.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter officer.
 1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.
- (c) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (d) Absent a voluntary statement from any officer, the initial on scene supervisor should not attempt to order any officer to provide other than public safety information.
- (e) Provide all available information to the Watch Commander and the Dispatch Center. If feasible, sensitive information should be communicated over secure networks.
- (f) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- (g) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.
 1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
 2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.

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310.5.2 WATCH COMMANDER DUTIES

Upon learning of an officer-involved shooting, the Watch Commander shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or a Division Commander.

310.5.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practical:

- Chief of Police
- Investigative Services Division Commander
- District Attorney
- Interagency OIS team
- Division Commander supervisor
- Civil Liability Response Team
- Psychological/Peer support personnel
- Medical Examiner (if necessary)
- Officer representative (if requested)

All outside inquiries about the incident shall be directed to the Watch Commander.

310.5.4 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 Watch Commander, Investigative Services Division Commander and Public Information Officer in the event of inquiries from the media.

It will be the policy of this department to not 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 Division Commander.

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.

310.5.5 INVOLVED OFFICERS

Once the involved officers have arrived at the station, the Watch Commander should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officers (ORS 181.789):

- (a) Any request for department or legal representation will be accommodated. However, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communication.

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- (c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information.
- (d) At least two sessions with a mental health professional shall be provided by the Department to each involved officer within six months after the incident, and, upon request, to any other affected officer. An involved officer must attend at least one such session (ORS 181.789).
 - 1. Interviews with a mental health professional will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
 - 2. An interview or session with a mental health professional may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
- (e) Communications with peer counselors are confidential and may not be disclosed by any person participating in the peer support counseling session (ORS 181.860). To be considered confidential communications under the statute, the peer counselor must:
 - 1. Have been designated by a law enforcement agency or employee assistance program to act as a peer counselor, and
 - 2. Have received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

Care should be taken to preserve the integrity of any physical evidence present on the officer's, equipment and clothing (e.g., blood, fingerprints) until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the officer's physical and emotional needs.

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. An officer who uses deadly force that results in the death of a person shall not be returned to a duty assignment that might place him/her in a situation in which he/she has to use deadly force until at least 72 hours immediately following the incident (ORS 181.789). It shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the Detective Unit supervisor to assign appropriate detective personnel to handle the investigation of related crimes in compliance with the Linn County Officer-Involved Use of Deadly Physical Force Investigation Plan. Detectives will be assigned to work with the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated under the direction of the District Attorney's Office.

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

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310.6.2 CRIMINAL INVESTIGATION

It shall be the policy of this department to utilize the District Attorney's Office to provide guidance in a criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, detective personnel from this department may be assigned to "partner" with investigators from the interagency investigative team so as to not duplicate efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved officer:

- (a) Supervisors and Division Commander personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (c) Any voluntary statement provided by the officer will be made available for inclusion in the administrative or other related investigations.
- (d) Absent consent from the involved officer or as required by law, no administratively coerced statements will be provided to any criminal investigators.

310.6.3 REPORTS BY INVOLVED OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

310.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or other major incident may be lost or the integrity of their statements compromised with the passage of time, a supervisor

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should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Available personnel should be assigned to promptly contact the suspect's family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

310.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision of the Division Commander and will be considered a confidential peace officer personnel file.

- (a) Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, or if there are additional issues that were not covered in the criminal investigation, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

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1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
3. Administrative interviews should be recorded by the investigator (the officer may also record the interview).
4. The officer shall be informed of all constitutional *Miranda* rights and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions. The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Garrity* admonishment).
5. The administrative interview shall be considered part of the officer's confidential personnel file.
6. The Division Commander shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy .
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

310.7.1 CIVIL LIABILITY RESPONSE

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation, but shall be given reasonable access to all other investigations.

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 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 prosecuting attorney or City Attorney's Office as appropriate.

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Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this office is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

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

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

The Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting deputies with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any deputy present and observing another deputy using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. A deputy who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

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Given that no policy can realistically predict every possible situation a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Office. Deputies may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

A deputy is justified in using force upon another person only when and to the extent that the deputy reasonably believes it necessary (ORS 161.235):

- (a) To make an arrest or to prevent the escape from custody of an arrested person unless the deputy knows that the arrest is unlawful; or
- (b) For self-defense or to defend a third person from what the deputy reasonably believes to be the use or imminent use of force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to deputies or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the deputy.
- (k) Potential for injury to deputies, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the deputy.
- (m) The risk and reasonably foreseeable consequences of escape.

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- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the deputy.
- (c) Whether the person has been given sufficient opportunity to comply.

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

300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The deputy shall have successfully completed office-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the deputy at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 - 1. The subject is violent or physically resisting.
 - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm deputies, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the deputy, the subject or others, and the deputy reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
 - 1. Females who are known to be pregnant
 - 2. Elderly individuals
 - 3. Obvious juveniles
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.

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- (e) The deputy shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any deputy attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the deputy in any related reports.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the deputy or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Deputies should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy or others.

Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this office shall be documented promptly, completely and accurately in a use of force report and /or police report, depending on the nature of the incident. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

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- (a) The application caused a visible injury.
- (b) The application would lead a reasonable deputy to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the CED or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the deputy's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another deputy and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the deputy reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

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

- (a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

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- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 SHIFT SUPERVISOR RESPONSIBILITY

The Shift Supervisor shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

Use of Force Review Boards

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Linn County Sheriff's Office to review the use of 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 Linn County Sheriff's Office will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training, policy and all protocols outlined in the Linn County Use of Deadly Physical Force Planning Authority. Refer to the LCSO Portal to view the Deadly Physical Force protocol (310-A).

302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using office 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 Sheriff may exercise discretion and choose not to place an employee in an administrative assignment in any case.

302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

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

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

It will be the responsibility of the Division Commander or supervisor of the involved employee to notify the Sheriff / Undersheriff of any incidents requiring board review. The involved employee's Division Commander or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

302.4.1 COMPOSITION OF THE BOARD

The Sheriff or Undersheriff should select five Use of Force Review Board members from the following, as appropriate:

- Command Staff representative
- Training Officer
- Rangemaster
- A DSA member
- Office instructor for the type of weapon, device or technique used

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Use of Force Review Boards

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

302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Sheriff will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

The review shall be based upon those facts which were reasonably believed or known by the deputy at the time of the incident, applying any legal requirements, office policies, procedures and approved training to those facts. Facts later discovered but unknown to the deputy at the time shall neither justify nor call into question a deputy's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the office's disciplinary procedures, the Personnel Complaints Policy, the current DSA contract and any applicable state or federal law.

The board shall make one of the following recommended findings:

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

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Undersheriff who will forward it to the Sheriff.

The Sheriff shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Sheriff's final findings will be forwarded to the involved employee's Division Commander for review and appropriate action. If the Sheriff concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Sheriff.

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.

310.1.1 DEFINITIONS

Involved deputy - A deputy whose official conduct, or official order to use deadly physical force, was a cause in fact of the death of a person. As used here, order to use deadly physical force means an order issued to another deputy to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident (ORS 181.789(a)).

A deputy whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by a deputy resulted in the death of a person (ORS 181.789(b)):

- Began before or during the use of the deadly physical force; and
- Was reasonably likely to have exposed the deputy to greater stresses or trauma than other deputies experienced as a result of their involvement in the incident before or during the use of the deadly physical force.

310.2 INVESTIGATION RESPONSIBILITY

This office conforms to the Linn County Sheriff's Office Officer-involved Shooting Protocol and the Linn County Use of Deadly Physical Force Planning Authority as established by law for investigating officer involved shootings. To view the Deadly Physical Force Protocol refer to the LCSO Portal (310-A).

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 office may relinquish its criminal investigation to an outside agency or interagency team with the approval of the Sheriff, Undersheriff or a Division Commander
- (b) A criminal investigation of the involved deputies conducted by an outside agency or interagency team
- (c) A civil investigation to determine potential liability conducted by the involved deputy's agency
- (d) An administrative investigation conducted by the involved deputy's agency, to determine if there were any violations of office policy

310.4 JURISDICTION

Jurisdiction is determined by the location of the shooting and the agency employing the involved deputies. The following scenarios outline the jurisdictional responsibilities for investigating deputy-involved shootings:

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310.4.1 LINN COUNTY SHERIFF'S OFFICE DEPUTY WITHIN THIS JURISDICTION

The Linn County Sheriff's Office is responsible for the criminal investigation of the suspect's actions, the civil investigation and the administrative investigation. The criminal investigation of the deputy-involved shooting will be conducted by this agency or an inter-agency team as designated in the Linn County Use of Deadly Physical Force Protocol in conjunction with the District Attorney's Office. The investigation team shall include at least one police officer from an outside law enforcement agency (ORS 181.789).

310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Linn County Sheriff's Office is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the deputy-involved shooting will be conducted by this agency or an inter-agency team as designated in the Linn County Use of Deadly Physical Force Protocol in conjunction with the District Attorney's Office. The deputy's employing agency will be responsible for any civil and/or administrative investigation(s).

310.4.3 LINN COUNTY SHERIFF'S OFFICE DEPUTY IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Linn County Sheriff's Office will conduct timely civil and/or administrative investigations.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of deputy-involved shootings:

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation	Administrative Investigation
Linn County Sheriff's Office Deputy in this Jurisdiction	Linn County Sheriff's Office	Linn County Use of Deadly Physical Force Protocol and District Attorney's Office	Linn County Sheriff's Office	Linn County Sheriff's Office Internal Affairs Unit
Allied Agency's Officer in this Jurisdiction	Linn County Sheriff's Office	Linn County Use of Deadly Physical Force Protocol and District Attorney's Office	Involved Officer's Department	Involved Officer's Department
A deputy From this office in Another Jurisdiction	Agency where incident occurred	Linn County Use of Deadly Physical Force Protocol dictated by county where incident occurred	Linn County Sheriff's Office	Linn County Sheriff's Office Internal Affairs Unit

310.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

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310.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter deputy.
 1. In the event that there are no non-shooter deputies, the supervisor should attempt to obtain a brief voluntary overview from one shooter deputy.
- (c) If necessary, the supervisor may administratively order any deputy from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (d) Absent a voluntary statement from any deputy, the initial on scene supervisor should not attempt to order any deputy to provide other than public safety information.
- (e) Provide all available information to the Shift Supervisor and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (f) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- (g) As soon as practical, shooter deputies should respond or be transported (separately, if feasible) to the station for further direction.
 1. Each involved deputy should be given an administrative order not to discuss the incident with other involved deputies pending further direction from a supervisor.
 2. When a deputy's weapon is taken or left at the scene (e.g., evidence), the deputy will be provided with a comparable replacement weapon or transported to the station by other deputies.

310.5.2 SHIFT SUPERVISOR DUTIES

Upon learning of an officer-involved shooting, the Shift Supervisor shall be responsible for coordinating all aspects of the incident until relieved by the Sheriff, Undersheriff or a Division Commander.

310.5.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practical:

- Sheriff
- Undersheriff
- Detectives Division Commander
- District Attorney
- Chaplain
- Interagency OIS team

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- Internal Affairs Unit supervisor
- Civil Liability Response Team
- Psychological/Peer support personnel
- Medical Examiner (if necessary)
- DSA representative

All outside inquiries about the incident shall be directed to the Shift Supervisor.

310.5.4 MEDIA RELATIONS

A single press release shall be prepared by the Sheriff or his designee, with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation.

It will be the policy of this office to not release the identities of involved deputies absent their consent or as required by law. Moreover, no involved deputy shall be subjected to contact from the media and no involved deputy shall make any comments to the press unless authorized by the Sheriff, Undersheriff or a Division Commander.

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.

310.5.5 INVOLVED DEPUTIES

Once the involved deputies have arrived at the office, the Shift Supervisor should admonish each deputy that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved deputies (ORS 181.789):

- (a) Any request for office or legal representation will be accommodated. However, no involved deputy shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communication.
- (c) Discussions with office representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information.
- (d) At least two sessions with a mental health professional shall be provided by the Office to each involved deputy within six months after the incident, and, upon request, to any other affected deputy. An involved deputy must attend at least one such session (ORS 181.789).
 1. Interviews with a mental health professional will be considered privileged and will not be disclosed except to the extent that the deputy is or is not fit for return to duty.
 2. An interview or session with a mental health professional may take place prior to the involved deputy providing a formal interview or report, but the involved deputies shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
- (e) Communications with peer counselors are confidential and may not be disclosed by any person participating in the peer support counseling session (ORS 181.860). To be considered confidential communications under the statute, the peer counselor must:

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1. Have been designated by a law enforcement agency or employee assistance program to act as a peer counselor, and
2. Have received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

Care should be taken to preserve the integrity of any physical evidence present on the deputy's, equipment and clothing (e.g., blood, fingerprints) until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the deputy's physical and emotional needs.

Each involved deputy shall be given reasonable paid administrative leave following an officer-involved shooting. A deputy who uses deadly force that results in the death of a person shall not be returned to a duty assignment that might place him/her in a situation in which he/she has to use deadly force until at least 72 hours immediately following the incident (ORS 181.789). It shall be the responsibility of the Shift Supervisor to make schedule adjustments to accommodate such leave.

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the Detective Division supervisor to assign appropriate detective personnel to handle the investigation of related crimes in compliance with the Linn County Use of Deadly Physical Force Protocol. Detectives will be assigned to work with the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated under the direction of the District Attorney's Office.

All related office reports except administrative and/or privileged reports will be forwarded to the designated detective supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

310.6.2 CRIMINAL INVESTIGATION

It shall be the policy of this office to utilize the District Attorney's Office to provide guidance in a criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, detective personnel from this office may be assigned to "partner" with investigators from the interagency investigative team so as to not duplicate efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved deputies in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved deputy:

- (a) Supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of deputies. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.

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- (b) If requested, any involved deputy will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual deputy's statement, involved deputies shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (c) Any voluntary statement provided by the deputy will be made available for inclusion in the administrative or other related investigations.
- (d) Absent consent from the involved deputy or as required by law, no administratively coerced statements will be provided to any criminal investigators.

310.6.3 REPORTS BY INVOLVED DEPUTIES

In the event that suspects remain outstanding or subject to prosecution for related offenses, this office shall retain the authority to require involved deputies to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved deputy may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved deputies as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved deputies should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved deputies in other reports.

Nothing in this section shall be construed to deprive an involved deputy of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

310.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or other major incident may be lost or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, deputies should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by office personnel.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in an office vehicle. When the witness is a minor,

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consent should be obtained from the parent or guardian, if available, prior to transportation.

- (c) Available personnel should be assigned to promptly contact the suspect's family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with deputies.

310.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this office will conduct an internal administrative investigation to determine conformance with office policy. This investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential peace officer personnel file.

- (a) Any deputy involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the deputy, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any deputy has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved deputy.
 - 1. If a further interview of the deputy is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved deputy shall be provided with a copy of his or her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved deputy has elected to not provide criminal investigators with a voluntary statement, or if there are additional issues that were not covered in the criminal investigation, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the deputy's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the deputy shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual deputy's statement, involved deputies shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 - 3. Administrative interviews should be recorded by the investigator (the deputy may also record the interview).
 - 4. The deputy shall be informed of all constitutional *Miranda* rights and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions. The deputy shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Garrity* admonishment).
 - 5. The administrative interview shall be considered part of the deputy's confidential personnel file.
 - 6. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

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7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy .
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

310.7.1 COMMUNITY OUTREACH

Recognizing that a well-informed public and staff is beneficial to the office in cases where the use of deadly force has occurred, it is our policy to use previously established programs to engage, inform, and educate staff and community members about this policy. This is completed through continued in-service training conducted for our employees and programs such as our Citizens Academy, Neighborhood Watch and various community presentations to members of the public.

310.8 AUDIO AND VIDEO RECORDINGS

Any deputy 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 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 prosecuting attorney or County Counsel's Office as appropriate.

Traumatic Incidents

311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide direction and assistance to members of the Linn County Sheriff's Office involved in a traumatic incident or effected by a traumatic incident.

For the purpose of this policy, the following terms are defined as:

Involved Deputy - Any person whose official conduct, or official order, was the cause in fact of the death of a person. "Involved Deputy" also means any deputy whose conduct was not the cause in fact of the death, but who was involved in the incident before or during the use of deadly physical force, and this involvement was reasonably likely to expose the deputy to a heightened level of stress or trauma.

Effected Deputy - Any person whose official conduct, or official order, caused the deputy to become involved in any incident that exposed the deputy to a high degree of stress or danger, over and above that which is normally incurred during police work.

Preliminary Statements - Statements provided by an "Involved Deputy" to supervisors or investigators immediately after a deadly force incident related to officer safety, public safety and necessary information to secure the scene apprehend others that may be of concern to the investigation, and provide a framework for the investigation.

311.1.1 POLICY

It is the policy of the Sheriff's Office to follow all the procedures outlined by law regarding a deputy's involvement in a deadly force event. Those procedures and expectations are outlined in the memo of understanding cooperatively agreed to by member agencies in Linn County. Refer to the Deadly Physical Force Protocol located on the LCSO Portal (310-A). This agreement will be under review annually and will become our standard for deadly force incidents.

No portion of this policy is designed to be less restrictive than Oregon Law and wherever there appears to be a conflict it is the policy of the Linn County Sheriff's Office to follow the law. In order to address those events that do not fall under a deadly force incident but do impact members of the Linn County Sheriff's Office this policy is also designed to meet the needs of members of the Linn County Sheriff's Office who are also involved in incidents that exceed the normal encountered in our areas of responsibility do not involve a deadly force incident. This policy addresses traumatic incidents that may render our employees with disabling emotional trauma.

It is the policy of the Sheriff's Office to provide assistance in the form of counseling services, legal representation and other support services to the extent required by law and authorized by the County, to members involved in a traumatic incident. A traumatic incident is defined, but not limited to, a shooting incident, traffic fatality, serious physical assault/injury, or other major trauma which may impact a member.

This policy does make a distinction between Involved Deputy and Effected Deputy with regard to specific issues related to counseling, duty assignments post event, and representation.

Attention should also be given to policy related to officer involved shooting 310.

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311.1.2 ADMINISTRATIVE LEAVE

Any "Involved Deputy" directly involved in a traumatic incident resulting in injury and/or death shall be placed on "administrative leave" following the receipt of preliminary statements as defined above. This administrative leave shall be without loss of pay or benefits. The assignment to administrative leave shall not be interpreted to imply or indicate that the member has acted improperly. While on administrative leave an "Involved Deputy" will not be assigned to any detail that might expose that "Involved Deputy" to a situation where he might be required to use deadly force against a person.

- (a) While on administrative leave, the "Involved Deputy" may be subject to an interview and to provide statements of clarification regarding the incident. Such an interview will not be conducted less than forty eight (48) hours after the incident. The Sheriff may determine it unnecessary for the member to provide additional statements for any reason or those statements may be deferred for longer than 48 hours after the incident.
- (b) Members of the Office including the Sheriff's Office Chaplain may be made available to assist "Involved Members or Effected Members" involved in traumatic incidents. However, until the agency's investigations into the incident are concluded, those persons shall be discouraged to discuss the incident other than what is believed necessary to help the member recover from the incident.
- (c) "Involved Deputies" may be assigned to office or special duty for a period of time as deemed appropriate by the Sheriff. "Involved Deputies" will not be assigned to any post where they may be required to use deadly physical force. If an "Effected Deputy" is placed on special duty after a traumatic incident, special care will be taken to make those assignments in a way that will not contribute to the "Effected Deputy's" trauma.
- (d) In the 6 months following a use of deadly physical force incident that results in a death, the Agency shall offer each "Involved Deputy" a minimum of two opportunities for mental health counseling. The deputy shall be required to attend at least one session of mental health counseling. Effected deputies will also be encouraged to attend a mental health counseling session as provided for though mental health resources. The content of these sessions are considered to be privileged communications with a mental health care professional. These sessions are not to be confused with, nor are they part of a fitness-for-duty examination.
- (e) During the investigation of the incident and the period thereafter until the member returns to duty, the Sheriff's Office will be sensitive to the personal needs of the member and the member's family, and furnish all reasonable and appropriate support and assistance.

311.1.3 PROFESSIONAL SUPPORT

- (a) In the event a claim is made against the County or an involved member, Oregon law requires that the County assume responsibility for the legal defense of the involved member unless:
 1. The act or omission did not occur in the performance of duty;
 2. The act amounted to malfeasance in office, or willful or wanton neglect of duty.
- (b) The member shall be notified in the event such a determination is made.
- (c) If pending litigation result from a traumatic incident, and it appears that the assistance of an attorney is required in order to protect the County and the interests of the "Involved Deputy", the County Attorney or insurance counsel or another attorney

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representing the interests of the member and the County shall be provided at County expense to represent the member and the County.

- (d) The attorney/client privilege shall apply to communications between the attorney and the "Involved Deputy".
- (e) Any agency member is entitled to retain and pay for an attorney of the member's choice at any time.

311.1.4 SPIRITUAL SUPPORT

- (a) The services of a chaplain will be available to all "Involved Deputy's" and his/her family or significant other, in all cases where injury or death results.
- (b) The purpose of the chaplain provision is to provide the member and/or his/her family or significant others with a source of spiritual consultation to aid them in dealing with the potential moral and ethical effects of a traumatic incident.
- (c) The chaplain's services shall not be related to any Sheriff's Office investigation of the incident, and nothing discussed will be divulged to the Sheriff's Office. The chaplain consultation sessions will remain protected by the privileged relationship.
- (d) Members involved in prior traumatic incidents may also be requested to assist/aid involved members.

311.1.5 WRITTEN REPORTS NOT REQUIRED

When possible, deputies involved will give a preliminary statement surrounding a traumatic incident prior to leaving work following the incident. The preliminary statement is not intended to be a complete discussion of all elements of the incident. It shall be sufficient to inform the Sheriff's Office what occurred and to facilitate a thorough and efficient investigation.

An interview will be scheduled so that investigative personnel can adequately investigate the incident. Reports concerning a traumatic incident may be dictated by the involved members, and need not be written out by hand. In the event the interview is tape recorded, all tapes will be marked and retained as evidence after being transcribed.

311.1.6 DESIGNATION OF SUPPORT RESOURCES


During the investigation following a traumatic incident, the involved member's supervisor and the investigator assigned to interview the member will be sensitive to the personal needs of the member and the member's family, and furnish all reasonable and appropriate support and assistance.

The Sheriff will designate members of the Sheriff's Office to insure that personal needs of an involved member are met during periods of administrative leave. Such designation shall be on a case by case basis. Members so designated by the Sheriff will keep all information confidential.

311.1.7 INVESTIGATION

Events involving Deadly Physical Force resulting in the Death of a subject or Deputy will require investigation by an outside agency. This agency will be identified by the Sheriff or his/her designee. The agency selected will have a member of the Linn County Sheriff's Office assigned to liaison, regardless of the jurisdiction of the event.

Oregon State Police Policy

	Department of State Police	<p style="text-align: right;">CHAPTER: 500.8 SUBJECT: USE OF FORCE REVISED: July 11, 2006 SUPERSEDES: August 7, 2000 PAGES: 10</p>
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POLICY

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

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

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

RELATED LAWS/REFERENCES

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

DEFINITIONS

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

4. **Physical Injury (ORS 161.015 sub.6) - Impairment of physical condition or substantial pain.**
5. **Serious Physical Injury (ORS 161.015 sub.7) - Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss of impairment of the function of any bodily organ.**
6. **Use of Force Incident - Any incident when deadly physical force, non-deadly physical force, or physical force is utilized in the furtherance of the Department's mission. Includes any discharge of a firearm (except to destroy an animal for public safety or humanitarian reasons, or during approved firearms training).**
7. **Totality of the Circumstances - All factors considered. With respect to use of force, circumstances may include comparative size; physical, emotional and mental condition; skill level of combatants; nature of the offense; weapons; and availability of assistance.**
8. **Use of physical force in making an arrest or in preventing an escape [ORS 161.235, (in part)].**
 - A. **A peace officer is justified in using physical force upon another person only when and to the extent the peace officer reasonably believes it necessary:**
 1. **To make an arrest or to prevent the escape from custody of an arrested person, unless the peace officer knows that the arrest is unlawful; or**
 2. **For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest, or while preventing or to prevent an escape.**

RULES

1. **A sworn employee shall only use that force reasonably necessary in the performance of his/her duties in the following circumstances:**
 - A. **To make the lawful arrest of a person;**
 - B. **To prevent the escape from custody of a person lawfully arrested;**
 - C. **In self defense; or**
 - D. **In the defense of another person.**

2. No sworn employee shall use unreasonable or excessive force upon or toward any person.
3. All use of force by sworn employees shall comply with current statute; and Department rules, policies, procedures, and training.
4. The degree of force used shall be the amount necessary to overcome resistance being employed by the person, or the immediate threat the person poses to the sworn employee or other persons.
5. Any force employed shall, whenever feasible, be progressive in nature. Situations may require the officer to proceed directly to a higher level of force as identified in the force continuum guidelines of this policy.
6. Unless other circumstances exist, sworn employees will use only the weapons, tools, techniques and training authorized by the Department.

PROCEDURES

1. Five Step Communications Procedures

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

2. Progressive Use of Force

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

- A. Officer presence - Compliance is gained through the professional bearing and demeanor exhibited by the officer.
- B. Verbal - Compliance is achieved through tactical communication, i.e., the Five Step Communication Procedure.
- C. Empty hand/Control techniques - Compliance is gained through physical contact utilizing Department trained techniques to overcome resistance.
- D. Chemical agent - Compliance is gained through oleoresin capsicum (o/c) and/or any other Department approved chemical agent.

- E. Strikes and kicks - Compliance is achieved through the use of empty hand strikes and kicks in accordance with prescribed training.**
- F. Impact weapons - Use of an impact weapon to gain compliance.**
- G. Deadly Physical Force - The use of deadly or dangerous weapons in a manner, degree or to the extent that death or serious physical injury is a reasonable consequence.**

3. Use of Deadly Physical Force

- A. Notwithstanding ORS 161.239, a sworn employee may use deadly physical force only when the officer reasonably believes the use of such force is necessary to:
 - 1. Defend the officer or another person from what the officer reasonably believes to be the infliction or threatened infliction of serious physical injury;**
 - 2. Apprehend a person who the officer has probable cause to believe has committed, or is committing, a crime involving the infliction of serious physical injury;
 - a. However, where the suspect poses no threat to the officer or others of serious physical harm, the officer is not justified in using deadly physical force; or,****
 - 3. Prevent the escape of a person from custody who the officer has probable cause to believe is inflicting, or threatening to inflict, serious physical injury as a means of escape.****
- A. Deadly physical force may be used when and if, where feasible, some warning has been given.**
- B. "Warning shots" are prohibited.**
- C. Discharging a firearm at a motor vehicle constitutes the use of deadly physical force.**
- D. When a sworn employee draws his/her firearm, baton, or other weapon as dictated by the totality of the circumstances, that act alone will not be considered "use of force" and does not necessitate notification to a supervisor.**
- E. When a firearm is pointed at a person, the immediate supervisor shall be notified as soon as practicable.**

F. In addition to the circumstances previously outlined in this section, sworn employees may also discharge a Department authorized firearm:

- 1. At Department sanctioned firearms practice or competitive shooting events; and**
- 2. In the destruction of an animal if it poses a threat to public safety or as a humanitarian measure if an animal is seriously ill or injured. (If unusual circumstances exist, i.e., prior intelligence for a search warrant, or an animal of obvious value, prior supervisor approval should be sought if feasible.) In all cases, a supervisor will be notified as soon as practicable.**

4. Non-Deadly Use of Force

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

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

5. Training

A. Deadly Weapons (Firearms)

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

A. Non-Deadly Weapons

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

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

6. Use of Force Notification

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

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

force delivered.

- a. The Use of Force OSPOA Rights/Supervisory Notification Form is attached to this chapter and may be reproduced.
2. The represented officer's immediate supervisor shall ensure this form is utilized.
3. The original Use of Force OSPOA Rights/Supervisory Notification Form is forwarded through the chain of command to the Office of Professional Standards.

7. Reporting Use of Force

A. In circumstances other than those instances provided for in the Public Safety Employee Involved Major Incident Investigative Manual, all use of force incidents may be the subject of a supervisory investigation and/or a written report when:

1. Use of force results in an apparent or reported injury;
2. A non-deadly weapon is used on a person (baton, chemical agent) or a strike or blow is delivered to the body;
3. A firearm is discharged in the furtherance of the Department's mission, except for firearms training or practice; or when necessary to kill an injured animal as discussed in this policy; or
4. A supervisor deems a report of the use of force is necessary.

B. A supervisor will review the specific circumstances of the incident and determine if a report to General Headquarters through the chain of command is needed.

1. In all use of force incidents required to be reported, the Use of Force After-Action Report will be utilized.
2. When the incident is minor in nature and the use of force was justified and the level of force used was the most appropriate, the supervisor should document the facts, and a supervisor's report to Headquarters may not be necessary.
3. The original Use of Force After-Action Report is forwarded through the chain of command to the Office of Professional Standards.

8. Department Review

A. All reported use of force incidents will be reviewed at the appropriate Department level of authority to determine:

1. If Department rules, policy, or procedures, were followed;
2. If the current and relevant rules, policy and procedures were appropriate and effective for the incident; and
3. If Department training was, and is adequate.

B. Findings of rule or policy violations or training inadequacies shall be forwarded to the proper level of authority for appropriate corrective action and/or resolution.

C. Critical Incident Review Team

- 1. The Critical Incident Review Team will review all deadly force incidents.**
 - a. The purpose of the Critical Incident Review Team is to conduct a meaningful incident review process with the goal of identifying successes and shortcomings and make efforts to replicate or improve performance as appropriate in responding to critical incidents.**
- 2. The review by the Critical Incident Review Team will be separate and independent of any criminal or personnel review of the deadly force incident.**
 - a. The Critical Incident Review Team will review whether the rule, policies, or procedures were adequate;**
 - b. Whether the tactics, equipment, communications, investigation processes or other relevant issues were/are adequate or appropriate.**
- 3. The Critical Incident Review Team will not have disciplinary responsibility or authority for the incident.**
- 4. The Critical Incident Review Team will be appointed by the Superintendent or designee and be comprised of at least four (4) members to include a sworn trooper/senior trooper, sworn supervisor, sworn representative from the Training Section, and the representative Region Commander or Division Director.**
- 5. The Critical Incident Review Team will prepare a written report of each review. The report will consider but is not limited to:**
 - a. The effectiveness of the performance of the Department and its personnel;**
 - b. Use of resources;**
 - c. Potential problems; and**
 - d. Recommendations for needed changes of Department policies, procedures, equipment, training, tactics, supervision or;**
 - e. Other relevant matters/issues.**
- 6. The Critical Incident Review Team will complete the review and report within 90 days after closure of the Use of Force After-Action Report and any personnel or criminal review.**

D. Administrative Analysis Summary Report and Public Disclosure

- 1. An annual review and summary analysis of use of force incidents shall be conducted by the Office of Professional Standards.**
- 2. Upon request, the summary shall be made available for public inspection by the Office of Professional Standards.**
- 3. The Training Section will review the annual summary of use of**

force incidents to determine if training policies and procedures are adequate. The Training Section shall submit a report describing their findings.

4. Use of force reports shall be retained as required by law.



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300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

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

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force

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that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer is justified in using force upon another person only when and to the extent that the officer reasonably believes it necessary (ORS 161.235):

- (a) To make an arrest or to prevent the escape from custody of an arrested person unless the officer knows that the arrest is unlawful; or
- (b) For self-defense or to defend a third person from what the officer reasonably believes to be the use or imminent use of force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.

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- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

- (a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.
- (b) The carotid control hold may only be used when circumstances perceived by the officer at the time indicate that such application reasonably appears necessary to control a person in any of the following circumstances:
 - 1. The subject is violent or physically resisting.
 - 2. The subject, by words or actions, has demonstrated an intention to be violent and reasonably appears to have the potential to harm officers, him/herself or others.
- (c) The application of a carotid control hold on the following individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of applying a carotid control hold:
 - 1. Females who are known to be pregnant
 - 2. Elderly individuals
 - 3. Obvious juveniles
- (d) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until examined by paramedics or other appropriate medical personnel.

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- (e) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the subject lost consciousness as a result.
- (f) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (g) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

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. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

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- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of force using a control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

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

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

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- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 PATROL SERGEANT RESPONSIBILITY

The Patrol Sergeant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

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.

310.1.1 DEFINITIONS

Involved officer - An officer whose official conduct, or official order to use deadly physical force, was a cause in fact of the death of a person. As used here, order to use deadly physical force means an order issued to another officer to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident (ORS 181.789(a)).

An officer whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by an officer resulted in the death of a person (ORS 181.789(b)):

- Began before or during the use of the deadly physical force; and
- Was reasonably likely to have exposed the officer to greater stresses or trauma than other officers experienced as a result of their involvement in the incident before or during the use of the deadly physical force.

310.2 INVESTIGATION RESPONSIBILITY

This department conforms to the Sweet Home Police Department Officer-involved Shooting Protocol and any other regional OIS protocol as established by law 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 or interagency team with the approval of the Chief of Police
- (b) A criminal investigation of the involved officers conducted by an outside agency or interagency team
- (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 officers. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings:

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310.4.1 SWEET HOME POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Sweet Home Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation and the administrative investigation. The criminal investigation of the officer-involved shooting will be conducted by this agency or an inter-agency team as designated in the Linn County Deadly Physical Force Plan in conjunction with the District Attorney's Office. The investigation team shall include at least one police officer from an outside law enforcement agency (ORS 181.789).

310.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

The Sweet Home Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer-involved shooting will be conducted by this agency or an inter-agency team as designated in the Linn County Deadly Physical Force Plan in conjunction with the District Attorney's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

310.4.3 SWEET HOME POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Sweet Home Police Department will conduct timely civil and/or administrative investigations.

310.4.4 INVESTIGATION RESPONSIBILITY MATRIX

The following table identifies the possible scenarios and responsibilities for the investigation of officer-involved shootings:

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation	Administrative Investigation
Sweet Home Police Department Officer in this Jurisdiction	Sweet Home Police Department	Linn County Deadly Physical Force Plan and District Attorney's Office	Sweet Home Police Department	Sweet Home Police Department Internal Affairs Investigator
Allied Agency's Officer in this Jurisdiction	Sweet Home Police Department	Linn County Deadly Physical Force Plan and District Attorney's Office	Involved Officer's Department	Involved Officer's Department
An officer From this department In Another Jurisdiction	Agency where incident occurred	Linn County Deadly Physical Force Plan dictated by county where incident occurred	Sweet Home Police Department	Sweet Home Police Department Internal Affairs Investigator

310.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting.

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310.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:

- (a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.
- (b) Attempt to obtain a brief overview of the situation from any non-shooter officer.
 1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.
- (c) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- (d) Absent a voluntary statement from any officer, the initial on scene supervisor should not attempt to order any officer to provide other than public safety information.
- (e) Provide all available information to the Patrol Sergeant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (f) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- (g) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.
 1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
 2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.

310.5.2 PATROL SERGEANT DUTIES

Upon learning of an officer-involved shooting, the Patrol Sergeant shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or designee.

310.5.3 NOTIFICATIONS

The following person(s) shall be notified as soon as practical:

- Chief of Police
- All supervisory personnel
- Investigation Team
- District Attorney
- Civil Liability Response Team
- Psychological/Peer support personnel
- Medical Examiner (if necessary)

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- Officer representative (if requested)

All outside inquiries about the incident shall be directed to the Patrol Sergeant.

310.5.4 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 Patrol Sergeant, Investigation Team and Public Information Officer in the event of inquiries from the media.

It will be the policy of this department to not 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 designee.

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.

310.5.5 INVOLVED OFFICERS

Once the involved officers have arrived at the station, the Patrol Sergeant should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officers (ORS 181.789):

- (a) Any request for department or legal representation will be accommodated. However, no involved officer shall be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communication.
- (c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information.
- (d) At least two sessions with a mental health professional shall be provided by the Department to each involved officer within six months after the incident, and, upon request, to any other affected officer. An involved officer must attend at least one such session (ORS 181.789).
 1. Interviews with a mental health professional will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
 2. An interview or session with a mental health professional may take place prior to the involved officer providing a formal interview or report, but the involved officers shall not be permitted to consult or meet collectively or in a group with a mental health professional prior to providing a formal interview or report.
- (e) Communications with peer counselors are confidential and may not be disclosed by any person participating in the peer support counseling session (ORS 181.860). To be considered confidential communications under the statute, the peer counselor must:
 1. Have been designated by a law enforcement agency or employee assistance program to act as a peer counselor, and

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2. Have received training in counseling and in providing emotional and moral support to public safety personnel or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

Care should be taken to preserve the integrity of any physical evidence present on the officer's, equipment and clothing (e.g., blood, fingerprints) until investigators or lab personnel can properly retrieve it.

Detectives shall make reasonable accommodations to the officer's physical and emotional needs.

Each involved officer shall be given reasonable paid administrative leave following an officer-involved shooting. An officer who uses deadly force that results in the death of a person shall not be returned to a duty assignment that might place him/her in a situation in which he/she has to use deadly force until at least 72 hours immediately following the incident (ORS 181.789). It shall be the responsibility of the Patrol Sergeant to make schedule adjustments to accommodate such leave.

310.6 THE SHOOTING INCIDENT CRIMINAL INVESTIGATION

310.6.1 DETECTIVE PERSONNEL

Once notified of an officer-involved shooting, it shall be the responsibility of the on-scene supervisor to assign appropriate detective personnel to handle the investigation of related crimes in compliance with the Linn County Deadly Physical Force Plan. Detectives will be assigned to work with the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated under the direction of the District Attorney's Office.

All related departmental reports except administrative and/or privileged reports will be forwarded to the designated supervisor for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the Chief of Police.

310.6.2 CRIMINAL INVESTIGATION

It shall be the policy of this department to utilize the District Attorney's Office to provide guidance in a criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, detective personnel from this department may be assigned to "partner" with investigators from the interagency investigative team so as to not duplicate efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved officer:

- (a) Supervisors and Internal Affairs Investigator personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.

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- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (c) Any voluntary statement provided by the officer will be made available for inclusion in the administrative or other related investigations.
- (d) Absent consent from the involved officer or as required by law, no administratively coerced statements will be provided to any criminal investigators.

310.6.3 REPORTS BY INVOLVED OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by involved suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved shooting.

310.6.4 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or other major incident may be lost or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identify all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.

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1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Available personnel should be assigned to promptly contact the suspect's family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to contact with officers.

310.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting, this department will conduct an internal administrative investigation to determine conformance with department policy. This investigation will be conducted under the supervision of the Internal Affairs Investigator and will be considered a confidential peace officer personnel file.

- (a) Any officer involved in a shooting may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, or if there are additional issues that were not covered in the criminal investigation, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
 3. Administrative interviews should be recorded by the investigator (the officer may also record the interview).
 4. The officer shall be informed of all constitutional *Miranda* rights and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions. The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The *Garrity* admonishment).

Sweet Home Police Department

Policy Manual

Officer-Involved Shooting

5. The administrative interview shall be considered part of the officer's confidential personnel file.
6. The Internal Affairs Investigator shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
7. The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy .
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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 be permitted to review available MAV or other video or audio recordings with approval of assigned investigators, the Chief of Police and the District Attorney.

Any MAV and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office as appropriate.



Douglas R. Marteeny
LINN COUNTY DISTRICT ATTORNEY

300 Fourth Ave. SW, Room 100, County Courthouse, Fourth & Broadalbin Streets
P.O. Box 100, Albany, Oregon 97321-0031 - Telephone 541-967-3836

July 8, 2013

Sheriff Tim Mueller
Albany Chief Mario Lattanzio
Sweet Home Chief Jeff Lynn

Lt. Dave Mazour
Lebanon Chief Frank Stevensen
Officer Travis Luttmmer

Det. Cyndi Pichardo
Andy Trower

Sheriff, Chiefs and proposed committee members,

The law in Oregon requires that each county develop a deadly physical force plan. Thereafter, that plan must be approved by the Attorney General. That process was initially completed in 2008. Since that time, some agencies have updated or modified their deadly physical force policies. Therefore, we need to update our plan. We will have a Linn County Deadly Force Planning Committee meeting August 8, 2013 at 7:00 p.m. at the Linn County Sheriff's Office.

Certain people are required to sit on the Deadly Force Planning Committee. I have checked with each Chief and the Sheriff regarding who should serve on this Committee. Preliminarily, the following people are suggested for each seat on the committee.

Tim Mueller (LCSO)	Sheriff
Doug Marteeny	District Attorney
Mario Lattanzio (APD)	Chief of Police selected by Chiefs within Linn County
Dave Mazour (OSP)	Lieutenant/rep. chosen by the Superintendent of OSP.
Cyndi Pichardo (SHPD)	Non-management police officer nominated by union.
Andy Trower	Public member chosen by Sheriff and D.A.
Travis Luttmmer (LPD)	Non-voting member

The seats on the committee outlined above follows what has been done historically. It allows each agency to have someone present at the table and complies with the statute outlining who must serve on the committee. If any of you would like any changes to the above list, please let me know.

I have attached a copy of the current County Plan along with each agency's respective Appendix-1 policies. Please review your agency's Appendix-1 policy and then submit to me what your agency would propose to be your updated Appendix-1 policy. I will then compile the new Appendix 1 for us to discuss and vote on at our meeting August 8, 2013. I need your new submission to Appendix-1 by July 19, 2013. This will allow me time to seek a preliminary opinion from the Attorney General before our meeting on August 8th.

If you are not able to make it to the August 8, 2013 meeting, then please let me know as soon as possible so that adjustments can be made that will still allow us to comply with the law regarding who must sit on the committee. If you have any further questions, please do not hesitate to contact me.

Thank you,


Doug Marteeny
District Attorney

PUBLIC NOTICE

The Linn County Use of Deadly Physical Force Planning Authority has scheduled a public hearing to review and consider updates to the County's Deadly Physical Force Plan. The hearing will be held August 8, 2013 at 7:00 p.m. at the Linn County Sheriff's Office located at 300 4th Ave. SW, Albany, OR.

#3324430

Publish: August 6, 2013

Published – Democrat Herald, August 6, 2013.

Deadly Force Planning Committee
August 8, 2013

Call to Order

Meeting called to order at 7:00 p.m. Present were Chief, Mario Lattanzio (Albany Chief), Undersheriff Bruce Riley and his daughter, D.A. Doug Marteeny, Lt. Dave Mazour (OSP), Det Cyndi Pichardo (SHPD), Sgt. Travis Luttmr (LPD), Andy Trower. No one from the public was present. The meeting was held in the LCSO conference room. Someone checked the LCSO waiting room a number of times to make sure there were no public members who were lost looking for where the meeting was.

Preliminary Explanation of SB 111

Doug Marteeny

History of SB 111 given by Doug Marteeny. It was explained that Appendix I. of the Plan contained updates of each agency's use of force policies. Other than that, there were no further changes proposed.

Public Comments

No public comments were received.

Discussion

Chief Lattanzio proposed two changes to the MOU document. First, under §4(1), it was proposed to add the step of "preservation of life" in subsection (1)(a). All present concurred and so this suggestion was added to the document.

Chief Lattanzio's second proposal was to set up a procedure where an involved officer will walk through the scene with investigators and the D.A. while at the scene. Currently the MOU anticipates that the officer will not be interviewed sooner than 48 hours after the incident unless the officer waives that waiting period.

Concerns were raised about this second proposal because the 48 hour waiting period may have been negotiated by unions and they may have concern with doing away with the 48 hour waiting period. Det. Pichardo (Union Rep) concurred with that concern. Chief Lattanzio pointed out that he has found that the walk through is sometimes very helpful to investigators, the D.A. and many times ultimately helpful for the officer because it gives him/her the opportunity to explain, while walking through the scene, what he/she saw and had just experienced.

It was decided that Chief Lattanzio and the D.A. will draft some specific language outlining Chief Lattanzio's proposal. That will be run past some unions and compared with union contracts. Then possibly some specific language can be brought before the Committee for a formal vote.

No further proposals or discussion was had.

Vote on Proposed Update

A motion was made by Det. Pichardo to adopt the plan containing the updated policies in Appendix I. along with Chief Lattanzio's first suggestion above. That motion was seconded by Bruce Riley. A vote was held and unanimously passed.

Explanation of Additional Future Requirements

Doug Marteeny

Doug Marteeny explained that governing bodies now need to vote on the plan and then it needs to be submitted to the A.G.

Other

It was decided that the next Use of Force meeting will be held October 14, 2014 at 3:00 p.m.

Adjournment

**BEFORE THE COUNCIL OF
THE CITY OF SWEET HOME**

**A RESOLUTION IN THE MATTER OF
APPROVAL OF UPDATED PHYSICAL
FORCE PLAN FOR LINN COUNTY**

**RESOLUTION NO.
for 2014**

WHEREAS, The Linn county Deadly Physical Force Planning Authority (“Authority”), respectfully requests that the Board consider a deadly physical force plan as set forth in Attachment A to the Authority’s Resolution No. _____, attached hereto; and

WHEREAS, the City of Sweet Home Council having considered the language of ORS SB 111 and is one of the governing bodies having a law enforcement agency that may vote to approve or disapprove the plan; and,

WHEREAS, After having considered public testimony [if any]; and now, therefore, be it

RESOLVED, That the deadly physical force plan as set forth in Attachment A is hereby approved.

Approved by the City of Sweet Home Council on (date).

Mayor

ATTEST:

City Recorder / Clerk

**BEFORE THE COUNCIL OF
THE CITY OF LEBANON**

**A RESOLUTION IN THE MATTER OF
APPROVAL OF UPDATED PHYSICAL
FORCE PLAN FOR LINN COUNTY**

**RESOLUTION NO.
for 2014**

WHEREAS, The Linn county Deadly Physical Force Planning Authority ("Authority"), respectfully requests that the Board consider a deadly physical force plan as set forth in Attachment A to the Authority's Resolution No. _____, attached hereto; and

WHEREAS, the City of Lebanon Council having considered the language of ORS SB 111 and is one of the governing bodies having a law enforcement agency that may vote to approve or disapprove the plan; and,

WHEREAS, after having considered public testimony [if any]; and now, therefore, be it

RESOLVED, that the deadly physical force plan as set forth in Attachment A is hereby approved.

Approved by the Lebanon City Council on _____ by a vote of ___ for and ___ against.

Council President, Mayor Paul Aziz

ATTEST:

City Clerk

**BEFORE THE COUNCIL OF
THE CITY OF ALBANY**

**IN THE MATTER OF APPROVAL OF
UPDATED PHYSICAL FORCE PLAN
FOR LINN COUNTY**

RESOLUTION NO. _____

WHEREAS, according to Senate Bill 111, the planning authority for Linn County has developed its deadly physical force plan that addresses each of the elements required by the bill; and

WHEREAS, the Council, having considered the language of SB 111, and the City of Albany being one of the governing bodies having a law enforcement agency that may vote to approve or disapprove the plans; and

NOW, THEREFORE BE IT RESOLVED by the Albany City Council that the deadly force plan for Linn County as set forth in Attachment "A", is hereby approved.

DATED AND EFFECTIVE THIS _____ day of _____, 2014.

Council President

ATTEST:

City Clerk

**BEFORE THE BOARD OF COMMISSIONERS
FOR LINN COUNTY**

**IN THE MATTER OF APPROVAL OF
UPDATED PHYSICAL FORCE PLAN
FOR LINN COUNTY**

RESOLUTION NO.

THE LINN COUNTY BOARD OF COUNTY COMMISSIONERS ("the Board") sat for the transaction of county business in a formal session at _____, 2014, members Roger Nyquist, Chair; John Lindsey, Commissioner, Will Tucker, Commissioner participating.

COMES NOW, The Linn County Deadly Physical Force Planning Authority ("Authority"), and respectfully requests that the Board consider a deadly physical force plan as set forth in Attachment A. to the Authority's Resolution No. _____, attached hereto; and

WHEREAS, the Board having considered the language of ORS SB 111 and is one of the governing bodies having a law enforcement agency that may vote to approve or disapprove the plan; and,

WHEREAS, After having considered public testimony [if any]; and now, therefore, be it

RESOLVED, That the deadly physical force plan as set forth in Exhibit 1 is hereby approved.

Adopted and Passed _____
(date)

BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY

Roger Nyquist, Chairman (date)

John Lindsay, Commissioner (date)

Will Tucker, Commissioner (date)

APPROVED AS TO FORM:

Gene Karandy
Linn County Legal Counsel



Douglas R. Marteeny
LINN COUNTY DISTRICT ATTORNEY

300 Fourth Ave. SW, Room 100, County Courthouse, Fourth & Broadalbin Streets
P.O. Box 100, Albany, Oregon 97321-0031 - Telephone 541-967-3836

February 6, 2014

City of Albany Mayor & City Council Members
Attention: Wes Hare
333 Broadalbin St. SW
Albany, OR 97321

Dear Mayor and City Council,

Oregon law requires that each county develop a deadly physical force plan. The plan outlines the protocol to be followed whenever deadly physical force may be used by a police officer. The plan is developed by a county wide Deadly Force Planning Committee. Procedurally, subsequent to the plan's development, city councils must approve the plan. Then the plan must be approved by the Attorney General. Linn County initially completed this process in 2008. From time to time this plan must be updated to reflect current policies and best practices. Since 2008, some agencies have updated or modified their deadly physical force policies. Because agency policies are incorporated into the plan, it is time to update our plan.

The Linn County Deadly Force Planning Committee met last year and approved the attached updated plan. There were only two substantive changes to the plan. Those changes are as follows:

- 1) Section 4. Immediate aftermath. Subsection (1)(a). The committee voted unanimously to add language outlining the officer's duty to, once deadly force is used and after public and officer safety are ensured, to then take reasonable measures to preserve life. This often comes in the form of rendering first-aid to any individual who has been injured by the use of deadly force.
- 2) Appendix I. now contains each respective agency's updated use of force policies.

The members of the Deadly Force Planning Committee unanimously approved the attached plan. I respectfully now seek the City of Albany's approval of the enclosed plan. I have included a copy of a resolution to effectuate this action.

Sincerely

Doug Marteeny
District Attorney – Linn County

Enc: Resolution and Attachment A (Deadly Physical Force Plan)



Representing
Doug Marteeny
LINN COUNTY
DISTRICT ATTORNEY

Dena Barawis
Administrative Supervisor

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