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POLICE CITIZEN REVIEW SUBCOMMITTEE

MINUTES

December 11, 2024
Meeting Held Remotely Via Zoom

Members present: Anne Hardcastle, Chair (left at 6:52); Xavier Botana; Gino Desruisseaux; Joey Brunelle; Kaylin Kerina

Members absent: Reverend Lewis, Vice-Chair

Staff present: Associate Corporation Counsel Rachel Millette; Chief Mark Dubois; Major Dan Hondo; Lt. Jacob Titcomb; Associate Corporation Counsel Nicole Albert; Tracy Boyd

6:02 Call to order.

Anne announced that she needed to leave the meeting early, thus the agenda was flipped so that she could present the case that was carried forward from November.

Motion was made by Xavier and seconded by Gino to adopt the October 9, 2024 meeting minutes. Passage 5-0.

6:05 Motion was made to enter into Executive Session pursuant to 1 M.R.S. Sec. 405(6)(F) to discuss IA2024-017 by Gino and seconded by Xavier. Passage 5-0.

6:44 Out of Executive Session.

Motion was made by Kay to find that IA2024-017 was fair; seconded by Gino. Passage: 5-0, IA2024-017 was found to be fair.

Motion was made by Joey to find that IA2024-017 was objective; seconded by Gino. Passage: 5-0, IA2024-017 was found to be objective.

Motion was made by Kay to find that IA2024-017 was timely; seconded by Gino. Passage: 5-0, IA2024-017 was found to be timely.

Motion was made by Xavier to find that IA2024-017 was thorough; seconded by Gino. Passage: 5-0, IA2024-017 was found to be thorough.

No public comment was offered.

Standing of the new ordinance:

Rachel reported that there's been an update to the City Council's workshop schedule, the new Civilian Police Review Board ("CPRB") will be discussed on February 10, 2025. The meeting will start in an executive session because the discussion will entail bargaining related obligations and collective bargaining processes. After the executive session the City Council may open up the workshop to the public depending on the outcome of the

meeting, or, they may announce that they are still bargaining. Joey asked when the public might see the updated version of the ordinance. Rachel responded that once the City Council has settled on the new version, the public will have a minimum of two and a half weeks to view the new ordinance before the City Council votes on it. The item will be a two read item posted ahead of the first read then public comment will be allowed during the second read.

6:52 Anne designated Xavier to lead the remainder of the meeting and left the meeting.

Use of Force Incident Review Presentation:

Associate Corporation Counsel Nicole Albert, [legal counsel to the police department](#), gave an overview of the Use of Force Incident Review process.

Questions arose around the Police Department's separate Use of Force committee members; who they are; how are they chosen; are there any disqualifiers for serving on the committee? Nicole explained that her task was to inform the committee of the incident review process and explained that she did not have information to answer the subcommittee members' questions regarding the separate Use of Force committee.

[>> Acting Chair Xavier requested that staff provide answers to these question at the next meeting.](#)

[Members discuss the possibility of making information about the Use of Force/Incident Review information available to the public.](#)

[>> Rachel, Tracy and Nicole say they can put this information in the meeting's minutes/supporting documents, along with the Police Department's relevant SOP.](#)

Workshop – role/responsibilities of the PCRS Board and IA process overview:

Rachel gave a PowerPoint presentation around the roles and responsibilities of the subcommittee members.

[Rachel clarifies something from the previous meeting and says that PCRS members *can* discuss their votes in a public session provided that the discussion does not in any way violate the privacy rights of the employees or the individual making the complaint. Broad generalizations are allowed, and questions can be asked during executive session regarding what is allowable to say in the public meeting.](#)

[The Committee discussed the possibility of sending a letter to complainants *before* the PCRS process, in addition to afterward \(as currently happens\), to better explain our purpose, limitations and value, which happened in the early years of the committee. The Committee also expressed interest in including vote totals in the letter sent to complainants.](#)

[>> It is suggested to put these on a future agenda.](#)

Joey raised the concern that the PCRS annual reports from 2008-2013 are missing from the City's website.

>> Rachel says she will take a look into that.

The Committee discussed past and possible future training, including from the police department and from NACOLE, and multiple members expressed interest in additional training.

No public comment was offered.

Topics for next month's meeting:

Kay suggests that we have a forward-looking discussion of trainings offered by PPD and NACOLE, or reaching out to USM (or other schools, e.g. Husson) to see if someone can give a presentation on other models of citizen police review. Xavier suggests starting with a review of past trainings.

Joey asks what the process is to develop the annual report. Gino says that it starts in spring and sometimes drags into fall. It doesn't take much, once we get the data.

>> Acting Chair Xavier suggests putting this topic on the January meeting agenda.

- Potential update on the new Civil Police Review Board ordinance
- Notice to complainant regarding PCRS review of their IA complaint
- [An Outline of the Incident Review Process that could go along with the meeting minutes and the SOP around incident review on the city's website](#)
- Previous trainings offered by PPD and NACOLE
- 2024 Report development

8:06 Motion was made by Joey and seconded by Kay to adjourn. Passage 4-0.

**PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE**

	Effective Date 06/29/2014	Number 90B
Subject Deadly Force Investigations		
Amendment Date		

I. Purpose

The purpose of this policy is to establish uniform procedures for the investigation of all incidents involving the use of deadly force by police officers. These procedures will govern only the investigative aspects of those incidents. Post incident procedures are addressed in SOP 90A.

II. Policy

It is the policy of the department to thoroughly, quickly and impartially investigate the use of deadly force by an officer. This may involve several separate investigations. The investigations will include:

- a) a criminal investigation of the suspect's actions by the department's Criminal Investigations Division. If the incident occurred in a different jurisdiction, the Chief of Police may request a joint investigation with that jurisdiction's police department.
- b) a criminal investigation of the involved officer(s) conducted by the Office of the Attorney General.
- c) an administrative investigation conducted by the Internal Affairs Unit (IAU) and other assigned personnel, to determine if there were any violations of department policy.

The procedures outlined in this policy are intended to elicit the information necessary to fully review the officer's use of force. These procedures are intended to facilitate the investigative process by allowing all the investigative components to work in a cooperative and collaborative fashion; while still respecting the rights of all of the involved parties.

III. Confidentiality of Investigations

Administrative investigations of the use of deadly force are conducted for the internal use of the Portland Police Department and are to be kept confidential in accordance with state law. The department reserves the right; however, to provide information regarding an investigation to the department's legal counsel. An officer whose conduct is the subject of an investigation is entitled to review the investigation upon its completion.

IV. Definitions

Administrative Investigation Team [AIT]: An investigative unit supervised by the Assistant Chief and comprised of personnel from the Internal Affairs Unit, the assigned evidence technician(s) and any other investigative resources deemed necessary by the Chief of Police. This unit is solely responsible for the internal, administrative investigation of the use of force by the officer.

Deadly force Incident: Any incident involving the use of deadly force by an officer; the use of any level of force which results in death; any departmental in-custody death or a use of force incident that results in serious bodily injury.

Garrity warning: A warning given to a police officer who is interviewed by his/her employer in a potentially disciplinary setting to advise the officer that he/she is part of an investigation, that the officer is obligated to give statements for internal purposes, and these answers may not be used

against the officer in the prosecution's case in a criminal proceeding. *Garrity* statements may be used in rebuttal.

V. Command Responsibilities

- A. The Commander of the Uniformed Operations Group shall assume responsibility for the oversight and management of the personnel assigned to the police headquarters after the incident, including, but not limited to, involved officers, dispatch personnel, peer support employees and union representatives.
- B. The Assistant Chief shall assume responsibility for the oversight and management of investigative personnel including, but not limited to, investigators, evidence technicians and patrol officers and shall act as the liaison with personnel from the Attorney General's office.

VI. Investigative Responsibilities

- A. The internal, administrative investigation of a deadly force incident shall be the responsibility of the Administrative Investigations Team. If a member of the Administrative Investigation Team is involved in the incident being investigated, a supervisor of equal rank will replace that member. The Administrative Investigation Team will work in coordination with the Criminal Investigation Division as they each conduct parallel investigations. The AIT will share any investigative knowledge that is not a product of compelled statements of involved officers. Investigative knowledge obtained by CID is provided to the AIT. Examples include results of witness interviews, canvasses and physical evidence collected.
- B. The CID Lieutenant shall retain responsibility for the criminal investigation of the suspect's actions and assign CID personnel, as he/she deems necessary.
- C. The Investigation Division of the Office of the Attorney General is designated as the official representative of the Attorney General in the investigation of police-involved deaths. The Attorney General's Office is required by law to investigate any use of deadly force by a law enforcement officer while acting in the performance of the officer's duties. The sole purpose of the Attorney General's investigation is to determine whether the force used by the officer was legally justified by self-defense or the defense of others; and to rule out criminal prosecution of the officer. Notification to the Attorney General and Office of the Chief Medical Examiner shall be the responsibility of the Assistant Chief, acting in his/her role as the supervisor of the Administrative Investigations Team.

VII. Investigative Duties

- A. Upon notification, Administrative Investigations Team members shall respond to the scene, the police department or other location as specified by the Assistant Chief.
- B. The assigned evidence technician(s) shall respond to the scene to begin preliminary processing of the scene and to ensure the preservation of evidence. The collection of evidence from the involved officer shall be a priority and shall be accomplished as quickly as possible. Processing may be done at the scene or at the police department.
- C. The AIT shall receive a general briefing and walk-through by the scene supervisor regarding the circumstances surrounding the shooting. The involved officer(s) may also be asked at some point to participate in the scene walk-through, if they are able.

- D. In dealing with involved personnel, AIT members should be cognizant of the symptoms of post traumatic stress including time and space distortions, confusion, hearing and visual distortion and shock.
- E. The involved officer(s) shall be relieved of the task of writing a Use of Force report. A Blue Team entry shall be made by the AIT for statistical purposes.
- F. An AIT member will be responsible for reviewing and collecting all of the video/audio information connected with the incident; including cruiser video, interview video, car to car messaging, email and dispatch audio recordings. The original material shall either remain in the custody and control of the team for investigative purposes or be logged into the evidence system. Copies will be made and/or released to CID and the Attorney General's office as needed, with the approval of the Assistant Chief.
- G. An AIT member will review all of the information collected by the AIT during the course of the investigation and be periodically briefed by the CID Lieutenant regarding the status of the criminal investigation. Information gathered by the AIT, pursuant to the *Garrity* warning, shall not be shared with CID investigators. The Assistant Chief will periodically brief the Chief of Police.
- H. If an autopsy occurs as a result of the incident, an AIT member will be assigned to attend.
- I. Blood/Urine testing: It is the police department's policy not to request blood or urine samples from the involved officer(s) unless the officer(s) requests the sample, the involved officer(s) shows objective symptoms of alcohol or drug use or it is obtained pursuant to the Fourth Amendment as part of the criminal investigation.

VIII. Officer Interviews

- A. An AIT member or the Chief's designee, will be responsible for conducting the formal interview (if necessary) of the officer(s) involved in the incident as well as the witness officers. The interviews shall be audio recorded. No more than two members of the Administrative Investigations Team may be present at the interview but only one person should question the officer.
- B. Prior to the interview, the involved officer(s) and department witnesses shall be read and provided with a copy of the *Garrity* warning. *Garrity* statements will not be released to CID or the Attorney General's office.
- C. The interview will be limited to questions which are specifically, directly and narrowly related to the incident. An officer may be questioned about off-duty conduct if it relates to the incident.
- D. The officer shall be advised that he/she has the right to have an attorney or union representative present during the interview. An officer's request to have an attorney or union representative present shall not unreasonably delay the interview.
- E. An officer can be disciplined for refusing to participate in an internal interview.
- F. If an officer chooses to participate in an interview with members of the Attorney General's office as part of their investigation of the incident, the AIT may request that the officer or his/her attorney arrange for the interview to be recorded and voluntarily provided to the AIT. An officer may refuse the request and will NOT face any discipline for refusing. If an officer provides an audio recording of the interview to the AIT, it may serve to

eliminate any additional interviews by the AIT. An officer or his/her attorney, who agrees to provide this information, acknowledges that the interview is NOT being compelled by the *Garrity* ruling.

IX. Administrative Findings

- A. The Assistant Chief or his/her designee shall prepare a written report, which includes the team's investigative conclusions about the incident and recommendations to the Chief regarding discipline, policy revisions and training alternatives. The final investigative report will be assigned an Internal Affairs case number and filed in the Internal Affairs Unit.
- B. The report shall be subject to command review to determine whether:
 - 1. the use of force was justified,
 - 2. the actions of the officer(s) were in accordance with department policy,
 - 3. any training or policy modifications are necessary and
 - 4. the Chief of Police should consider disciplinary action.
- C. The Chief of Police shall have final approval of the disposition of the case in accordance with the procedures established by SOP. The Chief may take action based on the command staff recommendations at any time before or after the findings of the Incident Review Team are completed.
- D. The involved officer shall receive a copy of the written report, the command staff recommendations and the Chief's final disposition.


X. Incident Review Team

- A. Pursuant to Maine law, within thirty (30) days of the completion of the Attorney General's investigation and the department's administrative investigation, the Chief of Police will convene an Incident Review Team consisting of members appointed by the Chief.
- B. The members appointed will include:
 - 1. the Assistant Chief, Commander and Captain;
 - 2. one member who is a commissioned officer of the Maine State Police;
 - 3. one member of the public who is not and has not previously served as a sworn law enforcement officer;
 - 4. the police attorney;
 - 5. the Use of Force Committee representatives from the PBA and the SOA;
 - 6. a Chief of Police from an outside agency; and
 - 7. any other individuals the Chief deems appropriate.
- C. The investigator(s) assigned to the incident will make a presentation to the Incident Review Team and answer any questions that may arise concerning the incident.

- D. The purpose of the Incident Review Team is to review both a factual reconstruction of the event and the use of deadly force to advise the Chief of Police on the following issues:
 - 1. Whether relevant policy was understandable and effective during the incident.
 - 2. Whether changes in policies or procedures are necessary to increase public safety or officer safety.
 - 3. Whether training methods or protocols should be reviewed or revised.
 - 4. Whether department equipment or other resources should be replaced, supplemented or modified.
- E. The police attorney will draft a report that reflects the findings of the Incident Review Team on the above issues for delivery to the Chief of Police. The Incident Review Team does not have the authority to determine whether an officer engaged in misconduct, violated department policy or procedures or should be subject to discipline for his/her actions.
- F. The Chief of Police will determine whether training, equipment and/or policy revision is needed.
- G. At the conclusion of the review process, a copy of all relevant reports and information will be filed with the Internal Affairs Unit.
- H. The involved officer will be given a copy of the Incident Review Team's report and may meet with the Chief to discuss the team's findings.
- I. The report of the Incident Review Team is a public record as provided by law. The following individuals will be provided with copies of the report: the City Manager, the Mayor, Corporation Counsel, members of the Portland City Council and the Police Citizen Review Subcommittee, members of the police department's Training and Use of Force Committees, the involved officer(s) and the Chair of the Board of Trustees of the Maine Criminal Justice Academy.
- J. After the Incident Review Team has made its findings, the Training Sergeant will convene the Training Committee, if necessary. At that meeting, a Command Staff member will review the Incident Review Team report with the committee and discuss any training concerns raised in the report.

Disclaimer: Any policy, procedure and/or rule shall not be construed as creating a higher legal standard of care or safety in an evidentiary sense with respect to third party claims. Nothing in this policy is intended to increase, modify or in any way affect current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard. The procedures articulated in this policy are for Department use only and do not apply in any criminal or civil proceeding. When a conflict occurs with Federal laws or Maine statutes, the law or statute will supersede the directive in conflict.

**PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE**

	Subject:	RESPONSE TO RESISTANCE/AID/REPORTING	Policy #:	1A
	Distribution:	Internal/External	Effective:	10/22/2017
	By Order of:	Chief of Police	Revised:	12/18/2022

I. PURPOSE

To establish guidelines governing response to resistance by Portland Police Officers and to describe requirements for medical aid and reporting.

II. POLICY

The Portland Police Department seeks to treat all people with dignity and respect and recognizes the value and sanctity of every human life. Investing officers with the trust and lawful authority to respond to use force in response to resistance and to protect the public welfare, a careful balancing of all human interests is required. Since there are too many variables that go into an officer's split-second decision to use force in what are oftentimes tense, uncertain and rapidly evolving situations, this procedure, although intended to provide clear direction, is unable to be all inclusive and does not attempt to describe in absolute terms and in every circumstance when an officer should or should not use a particular response option. It is the policy of this agency for officers to consider safety priorities and attempt to control an incident by the use of de-escalation whenever safe and reasonable to do so, and to use only the degree of force that the officer reasonably and actually believes is necessary to effectively bring an incident under control while protecting the officer or another. When necessary to respond to resistance, the degree of force employed must be proportional and in direct relationship to the amount of resistance exerted, or the immediate threat to the officers or others. Officers must respond in a way that does not violate the Constitution or applicable law. Officers shall report their use of physical force, and shall take reasonable steps to obtain appropriate medical attention. Supervisors and command staff shall review all uses of force and control to ensure compliance with legal requirements and this policy. Given this is a statutorily mandated policy, officers must abide by this SOP as it applies to all standards of the MCJA Board of Trustees.

III. DEFINITIONS

- A. **Actual Belief:** A subjective state of mind in which the officer holds a genuine or honest conviction.
- B. **Bodily Injury:** Physical pain, physical illness or any impairment of physical condition.
- C. **Canine (K-9):** A department authorized dog, the training and certification of which has included handler protection and suspect apprehension. This is considered the use of non-deadly force.
- D. **Chemical Agents:** A response option intended to disable a person with the use of chemicals, inflammatory agents, or similar substances (e.g., OC or CS) that has an irritating or disabling effect upon human beings. Incapacitating agents are designed to produce temporary physiological or mental effects, or both, which will render individuals incapable of concerted effort. This is considered the use of non-deadly force.
- E. **Command / Officer Presence:** The presence of a law enforcement officer who is willing and able to handle a situation, and the ability to speak clearly authoritatively, issuing concise commands using a tone that reflects control and professionalism.

- F. **Compliance Techniques:** Methods of arrest, restraint and control that include the manipulation of joints, pressure point applications, and take down techniques to control a resistant or aggressive offender.
- G. **Conducted Electrical Weapon (CEW):** An incapacitating weapon that uses electricity against a person, causing involuntary muscle contraction, and overriding the person's voluntary motor responses. This is considered an intermediate level use of non-deadly force.
- H. **Deadly Force:** Physical force which a person uses with the intent of causing, or which the person knows to create a substantial risk of causing, death or serious bodily injury, including, but not limited to the intentional, knowing or reckless discharge of a firearm in the direction of another person or at a moving vehicle.
- I. **De-escalation:** Coupled with the consideration of safety priorities, the use of verbal or non-verbal actions and tactics, whenever feasible and possible, preceding a potential force encounter. This may include, but is not limited to the use of distance, cover, tactical re-positioning, and communication in order to stabilize the situation, reduce the immediacy of the threat, and allow for more time and options for resolution. The goal of these tactics is to slow down the situation, allowing access to additional resources (e.g., personnel, supervisors, specialized officers or teams) that may mitigate the intensity of the encounter, help gain voluntary compliance, or otherwise allow for control of the situation and the safety of the officer, subject and others without the need to use force, or with the use of a lower level of force.
- J. **Excessive Force:** Physical force that is unreasonable, unnecessary or inappropriate given the facts and circumstances known to the officer at the time the force was used.
- K. **Firearm:** Any weapon whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes a pistol, rifle, revolver, gun, machine gun or shotgun, but not including the PepperBall system or a CEW device. Any weapon that can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm.
- L. **Imminent:** Impending, immediate or appearing as if about to happen or occur.
- M. **Impact Projectiles (Less Lethal Munitions):** Specialty, low-kinetic energy projectiles, approved by the MCJA Board of Trustees, designed to be discharged from a firearm and have a disabling effect upon human beings. Law enforcement use of such munitions is considered the use of non-deadly force.
- N. **Impact Tool / Weapon:** A tool or device designed for use by an officer in close quarter physical defense of the officer or another and / or control of an aggressive offender. The issued baton is a department-approved impact tool.
- O. **Individual Actions:** As a part of the Situational Use of Force assessment process, the categories below can be used to describe an individual subject's behavior:
- **Cooperative:** Compliant and willing to obey, posing minimal threat to the officer(s) or others.
 - **Resistive (Passive):** Non-compliance, defiance or failure to cooperate with lawful verbal direction, but offering no resistive or evasive bodily movement to prevent the officer's attempt at physical

control (e.g., a passive demonstrator, a person going limp, prone or refusing to stand up, lie down, enter / exit vehicle, leave the scene, etc.).

- **Resistive (Active):** Physically resistive or evasive bodily movement, including but not limited to muscle tension, bracing, pushing, pulling, flailing or flight, to avoid or defeat an officer's attempt at physical control, or to prevent being taken into or retained in custody. Verbal statements, defiance and belligerence alone do not constitute active resistance.
 - **Active Aggression:** A threat of an assault, coupled with any pre-attack indicators (e.g., clenched fists, flanking, fighting stance, etc.) and the present ability to carry out the threat or assault, reasonably indicating that an assault or injury to the officer or another person is imminent.
 - **Assaultive (High Risk):** An overt act of an assault, or highly agitated or combative actions or behavior posing an imminent threat of injury to the officer or another. Such actions may include, but are not limited to hostile physical or active resistance, kicking, punching or spitting, whether an assault occurs or not.
 - **Life Threatening:** Actions or behavior that could cause death or serious bodily injury, potentially justifying the use of deadly force.
- P. **Less Lethal Force:** Response options that are not designed or used with the intention of causing (and have less potential for causing) death or serious bodily injury, including but not limited to chemical agents, PepperBall, impact projectiles or munitions, or a CEW.
- Q. **Less than Lethal Munitions:** A low-kinetic energy projectile designed to be discharged from a 40 mm launcher that is approved by the Board of Trustees of the Maine Criminal Justice Academy that has been designed to have a disabling effect upon human beings. The use of a less-than-lethal munitions weapon is considered to be the use of non-deadly force.
- R. **Neck ("choke") hold:** One of the following types of holds: (1) arm-bar control hold, a hold that inhibits breathing by compression of the airway in the neck; (2) carotid restraint hold, a hold that inhibits blood flow by compression of the blood vessels in the neck; (3) lateral vascular neck constraint; or (4) a hold with a knee or other object to the back of a prone subject's neck, all of which are considered lethal force.
- S. **Non-Deadly Force:** Any physical force that is not deadly force.
- T. **Officer Response Options:** Choices available to an officer concerning the type of force to be used in response to resistance in a given situation, including but not limited to officer / command presence, voice commands, de-escalation, compliance techniques, CEWs, chemical agents, impact weapons, canines, and deadly force.
- U. **PepperBall Projectiles:** Plastic spheres that are filled with pelargonic acid vanillylamide (PAVA) and are delivered by a special launching device. With the exception of specialized (e.g glass-breaking rounds) use of PepperBall projectiles is considered the use of non-deadly force.
- V. **Physical Force:** Any physical power or kinetic energy exerted by an officer to coerce, overcome, control or restrain another individual to comply or submit. The actual exercise of some form of Kinetic energy (one person to another) of such a nature as to create an imminent and substantial risk of causing bodily harm.

- W. **Reasonable Belief:** When facts or circumstances provided to or known to the officer are such as to cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.
- X. **Safety Priorities:** A decision-making process which provides the framework for making tactically sound decisions, utilizing objective criteria based on an individual's current or likely risk of suffering serious bodily injury or death and their ability to remove themselves from that danger. Those exposed to the greatest potential of injury with the least ability to escape the situation are placed at the top of the priorities (e.g., a hostage held against their will who has little ability to control the situation). On the other end of the continuum is the suspect or subject who has little threat of injury by others and is in control over the situation. The safety priorities value all life and its intent is to assist law enforcement in making tactical decisions to assist in saving lives.
- Y. **Serious Bodily Injury:** Bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence for recovery of physical health.
- Z. **Situational Use of Force Options:** A dynamic process by which an officer assesses, plans and responds to situations that threaten public and officer safety and require the use of force and control. The process includes an assessment of the situation and circumstances immediately confronting the officer, including but not limited to the severity of the crime or suspected offense, the level and imminence of any threat to the officers or public, the level of resistance, the risk or apparent attempt to flee or escape; the suspect's behavior and individual actions (cooperative, resistive (passively or actively), assaultive / high risk, or posing a threat of death or serious bodily injury); and to the officer's perceptions and tactical considerations. Based on this assessment, the officer selects from the available officer response options while continuing to evaluate the evolving situation, adapting a plan and actions that are appropriate and effective in bringing the situation under control.
- AA. **Option of Availability:** Flashlights, vehicles, tools, implements, objects or other devices or techniques that are not necessarily issued, intended or normally authorized as response options, but that may be used in extraordinary circumstances when their use would be justifiable and no other adequate or suitable defensive option is immediately available.

IV. TRAINING / PROFICIENCY / DUTY TO ACT

- A. Only sworn and certified personnel, who have been trained on this SOP and demonstrate proficiency in the use of the department's authorized firearms and less lethal force options, as may be established by the department or the Maine Criminal Justice Academy, will be permitted to carry or use them on or off-duty.
- B. Initial weapons proficiency will be achieved through training and qualification during the Field Training program. Training will include instruction on safe handling, storage and maintenance procedures. Continued proficiency with all authorized firearms (both lethal and impact projectiles) and the CEW will be demonstrated by successful completion of annual training and qualification. Annual training should include relevant review of this SOP. All firearms and less lethal force response options training and qualifications will be documented and supervised by trained and / or certified instructors.

- C. Training in other less lethal response options (O.C., PepperBall, impact baton and defensive tactics) must be conducted at least biennially.
- D. If an officer fails to qualify with a firearm as outlined in SOP 1B, or demonstrate proficiency with another less lethal response, the instructor shall notify the Chief of Police, in writing, on the same date, and will develop a remedial training (lesson) plan, subject to approval by the Chief of Police or designee, to include the type of remedial training and the timetable to address the deficiencies. The officer will be placed on an altered or administrative assignment pending successful completion of the training / qualification, and must not carry or use the firearm or less lethal response option until having demonstrated proficiency.
- E. Failure to qualify following remedial training will result in further review or evaluation of fitness for duty, which may result in action up to and including termination.
- F. An officer has a duty to intervene, at the earliest, safe opportunity, to prevent or stop the known or apparent use of excessive force by another officer when it is objectively reasonable to do so. The incident must be immediately reported, verbally and in writing, to a supervisor.

V. RESPONSE TO RESISTANCE JUSTIFICATIONS

Officers are authorized to use force to overcome a suspect's resistance or to accomplish some other lawful law enforcement objective for which force is lawful, necessary and appropriate. Officers derive their authority to use force from applicable Maine State laws and guidelines. As such, officers should be familiar with the laws and guidelines contained in 17-A M.R.S.A. § 104, 105, 106(6), 107, 108 and 110, as well as the ARREST Chapter of the Maine Law Enforcement Officer's Manual. Officers shall only carry department-authorized weapons, and with the exception of an authorized use of a option of availability, should only use weapons after being trained in their use.

- A. **USE OF NON-DEADLY FORCE:** An officer is justified in responding to resistance using a reasonable degree of non-deadly force upon another person:
 - 1. when and to the extent the officer reasonably believes it is necessary to effect an arrest or prevent the escape from custody of an arrested person, unless the officer knows the arrest or detention is illegal; OR in self-defense or to defend a third person from what the officer reasonably believes to be the imminent use of unlawful, non-deadly force encountered while attempting to effect such an arrest or while seeking to prevent such an escape; OR
 - 2. in self-defense or to defend a third person from what the officer actually and reasonably believes to be the imminent use of unlawful, non-deadly force, and the officer actually and reasonably believes that the officer's use of non-deadly force is necessary; OR
 - 3. to prevent or thwart the commission of a person's suicide, or a person's self-infliction of serious bodily injury; and / or to exercise protective custody of a person, consistent with 34-B M.R.S.A. § 3862.
- B. **USE OF DEADLY FORCE:** An officer is justified in responding to resistance using deadly force only when the officer reasonably believes such force is necessary:

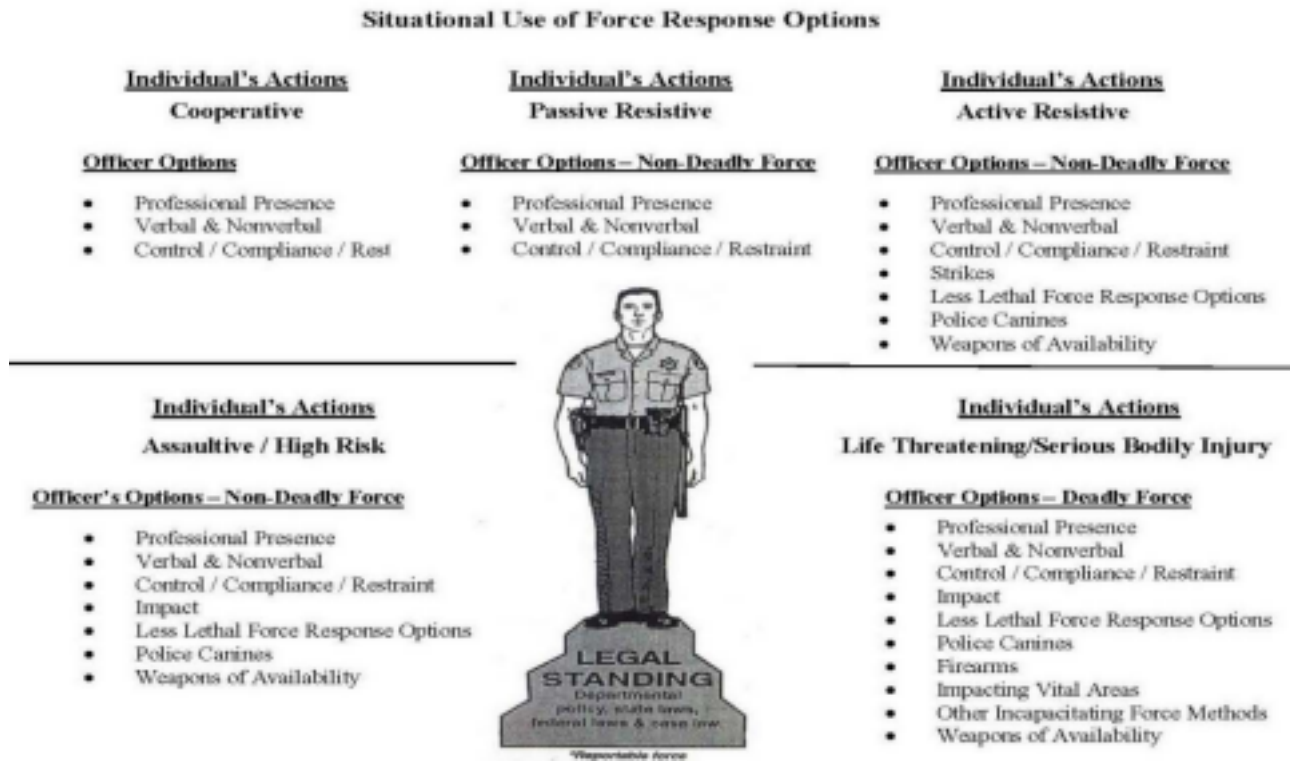
1. for self-defense or to defend a third person from what the officer reasonably believes is the imminent use of unlawful deadly force; OR
2. to effect an arrest or prevent the escape of a person when the officer reasonably believes the person has committed a crime involving the use or threatened use of deadly force, is using a dangerous weapon in attempting to escape, or otherwise indicates that the person is likely to seriously endanger human life or inflict serious bodily injury, unless apprehended without delay, AND the officer has made reasonable efforts to advise the person that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest and the officer has reasonable grounds to believe the person is aware of the advice, or the officer reasonably believes that the person otherwise knows that the officer is a law enforcement officer attempting to effect an arrest or prevent an escape. The mere fact that a person is a “fleeing felon” does NOT, in and of itself, justify the use of deadly force (Tennessee v. Garner). Deadly force may not be used against an unarmed, non-violent, property crime offender; OR
3. to destroy any animal that is obviously vicious or aggressive and presents a direct or potential threat of killing or seriously injuring any person. Supervisory approval should be obtained, whenever possible. Dispatching or euthanizing an animal is not considered a use of force.

Where reasonably practical and permitted by the circumstances, officers should identify as a law enforcement officer and warn of their intent to use deadly force.

VI RESPONSE OPTION GUIDELINES

- A. Consistent with Maine state standards, the department has adopted the Situational Use of Force response model, the underlying principle of which is threat assessment. During any incident in which force is justified to respond to resistance, officers are expected to use good judgment in assessing a situation and determining which response option would best defuse a situation and bring it under control. The key to using the proper type of force is recognizing a threat.
- B. Consistent with the Graham v. Connor decision, officers must, on an ongoing basis, assess the totality of the circumstances, including but not limited to:
 1. The severity or seriousness of the crime or suspected offense;
 2. The level of threat or resistance presented by the subject;
 3. The risk or apparent attempt by the subject to flee or escape; and
 4. Whether the subject was posing an imminent threat to the officer(s) or others.
- C. An officer may assess or perceive a situation based, in part, on the suspect’s individual actions and behaviors (i.e., cooperative, resistant (passively or actively), assaultive or posing a threat of death or serious bodily injury); the officer’s objective perceptions and tactical considerations; the environment; the number of individuals; the perceived abilities and knowledge of the individuals; the number of officers (or availability of backup); each officer’s unique skill levels and competencies; time and distance; and any objective indicators signaling an attack.
- D. Use of physical force should terminate when resistance ceases or when it is objectively reasonable that a subject is fully in the control of law enforcement.

- E. Based upon that assessment, safety priorities, and the officer's training, education and experience, an officer must decide upon a proper and reasonable response option, either deadly or non-deadly force, as depicted and further described below:



- F. Consistent with State and Federal laws, the response options available within the situational use of force matrix, and notwithstanding the justified use of any Option of Availability, in response to a given situation, officers justified to respond to resistance may consider the reasonableness, appropriateness and necessity to use one or more of the following authorized non-deadly or less lethal force response options:

1. **Officer Presence (Non-Verbal):** The appearance of an officer who is willing and able to handle a situation. Officers should use tactical de-escalation techniques, such as distance, cover, and tactical re-positioning to gain time, as appropriate, and other alternatives to higher levels of force, consistent with SOP and training. Remember the tactical resolution equation of Distance + Cover = Time.
2. **Professional / Command Presence (Verbal):** Whenever such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, officers should make every attempt to achieve control through the use of tactical de-escalation techniques, coupled with advisements, warnings, persuasion, appeals, and the use of clear, concise and direct advice or commands while using a tone that reflects control and professionalism, without the undue use of profanity or argument. Whenever feasible, an officer will allow the subject an opportunity to comply with the officer's verbal commands prior to resorting to a use of force.

3. **Control / Compliance Techniques & Restraints:** Includes the use of empty hands, impact tools and / or mechanical restraints (e.g., handcuffs and / or leg cuffs, and may include the application of strength, leverage, takedowns, control holds, and / or come-alongs, using hands, feet, fists, knees or baton. The purpose of these options is to gain control, forcing the suspect's compliance while minimizing the risk of injury to the officer, bystanders, or the person being taken into custody. Neck holds are prohibited, unless deadly force is justified.
4. **Chemical Agents (OC Spray):** Although not universal, chemical agents have displayed a high level of effectiveness and low potential for lasting injury and may be used to supplement other means of controlling a subject:
 - a. **AUTHORIZED USE:** OC spray may be a response option:
 - 1) When physical force is justified to control or subdue a person actively resisting arrest; a person exhibiting active aggression; or whose individual actions are assaultive (high risk) or life threatening, leading to a reasonable belief that the person poses an immediate threat to the officer or another person and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics.
 - 2) When physical force is justified to control or subdue a person who overtly poses an imminent and substantial threat of harm to themself.
 - 3) To defend oneself or another from a vicious or aggressive animal.
 - b. **RESTRICTIONS:** Consideration should be given as to whether the use of chemical agents will help or hinder the operation because of the physical limitations and / or the need for decontamination. The use of chemical agents should be avoided where it would affect children or innocent bystanders, unless the exigency of the situation dictates otherwise. Chemical agents shall not be used on a cooperative or passively resistant person; on a person solely due to belligerence or verbal defiance; on anyone under effective restraint; to punish, intimidate or coerce a subject; for purposes of demonstration, experimentation or horseplay against any person, even a volunteer, unless as part of department sanctioned training; to rouse an unconscious, impaired, disabled or intoxicated person; or to elicit information or to threaten or intimidate, without legal justification.
 - c. **POST APPLICATION:** As soon as practical after a chemical agent application, officers should assist with decontamination by providing fresh air and water. Officers should monitor the exposed person's health and should counsel and provide information about OC effects to an exposed person.
5. **Canine (K-9):**
 - a. **AUTHORIZED USE:** A certified police canine may be a response option for instances in which non-deadly force is justified to control or subdue a person actively resisting arrest, to include any person suspected of fleeing after having committed a violent or other serious crime; a person displaying active aggression; or a person whose individual actions are assaultive (high risk) or life threatening towards the officer or another person present, leading to a reasonable belief that the person poses an immediate threat to the officer or another

person and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics; OR when physical force is justified to control or subdue a person who poses an imminent and substantial threat of physical harm to that person, the officer, or another.

- b. **RESTRICTIONS:** Unless otherwise justified, reasonable and necessary, a police canine shall not be deployed to apprehend a cooperative or passively resistant person; a person solely due to belligerence or verbal defiance; a person fleeing from a property or other non-violent crime; a person the officer knows or reasonably believes to be pregnant; elderly and / or visibly frail, to include persons known or believed to be over the age of sixty-five (65), a juvenile believed to be under the age of eighteen (18); or a person who is handcuffed and under effective restraint.
 - c. **DEPLOYMENT:** A warning should be given prior to the deployment of a canine, unless it would be tactically unsafe to do so. The handler shall cause the canine to disengage immediately when it becomes reasonably apparent that the suspect has surrendered, readily complies with the officers' directions, is no longer a threat, and / or when sufficient law enforcement personnel are available to safely take the suspect into custody.
6. **Conducted Electrical Weapon (CEW):**
- a. **READINESS:** Officers are responsible for immediately reporting any issues (e.g., missing or damaged equipment) to the Shift Commander, who will be responsible for the overall accountability of the department's CEW units.
 - b. **AUTHORIZED USE:** A CEW may be a response option:
 - 1) To control or subdue a person actively resisting arrest, exhibiting active aggression, or whose individual actions are assaultive (high risk) or life threatening, leading to a reasonable belief that the person poses an immediate threat to the officer or another person and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics.
 - 2) To control or subdue a person who overtly poses an imminent and substantial threat of harm to themselves, and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics.
 - 3) To defend oneself or another from a vicious or aggressive animal.
 - c. **RESTRICTIONS:** Unless otherwise justified, reasonable, necessary and appropriate, officers SHALL NOT use a CEW:
 - 1) On a cooperative or passively resistant person, or a person who is solely belligerent or verbally defiant;
 - 2) On a person merely because that person is fleeing or attempting to escape;
 - 3) On a person the officer knows or reasonably believes to be pregnant, elderly and / or visibly frail, to include persons known or believed to be over the age of sixty-five (65), or young children, to include persons known or believed to be under the age of fourteen (14); or on a person who is handcuffed and under effective restraint;

- 4) On a person in a position where a fall would likely cause serious bodily injury or death (e.g., edge of a bridge, or body of water, in a body of water, or on top of a staircase, roof, tree, or other elevated structure), unless deadly force is otherwise justified;
- 5) On a person in control of a mode of transportation (e.g., automobiles, motorcycles, bicycles, etc.) if the CEW use could reasonably result in the uncontrolled movement of the transport vehicle;
- 6) To punish, intimidate or coerce a subject, or to rouse an unconscious, impaired, disabled or intoxicated person;
- 7) In the presence of potentially flammable, volatile or explosive materials, including alcohol-based OC Spray, gasoline, natural, and / or propane gas;
- 8) For purposes of demonstration, experimentation or horseplay against any person, even a volunteer. Officers shall not be voluntarily or involuntarily "exposed" to a CEW discharge.

d. DEPLOYMENT:

- 1) Officers responding to or at an incident where a CEW is used - or is anticipated - shall notify dispatch, the on-duty supervisor and EMS.
- 2) Officers may consider using the CEW, consistent with this SOP and their training, in any of the following modes:
 - a) Laser Only – with verbal warning (non-contact)
 - b) Spark Check – with verbal warning (non-contact)
 - c) Probe Deployment – temporary incapacitation (primary / preferred) option.
 - d) Drive (Touch) Stun – less effective (secondary / non-preferred) option.
- 3) Unless it would be unsafe to do so, prior to deploying the CEW, officers should verbally announce, "Taser-Taser" so that other officers are aware that a CEW is about to be deployed. This will also provide the suspect an additional opportunity to cease the conduct that has given rise to the intended CEW deployment.
- 4) The primary aiming point is a person's back. Since it is not always possible to get behind a person, secondary targeting areas may include lower, front center mass / torso or legs. Officers shall not target the face, neck, groin or upper chest areas, where possible.
- 5) Only one officer should activate a CEW on a person at any one time, deploying the CEW for one standard cycle (5 seconds) and then re-assessing. Officers must use the minimum number of cycles necessary to accomplish the legitimate operational goal. If a CEW remains ineffective after three (3) cycles, or after a continuous cycle of more than 15 seconds, officers should avoid continued cycling and consider alternative response options.
- 6) Verbal commands should be provided throughout the contact. Back-up officers should begin to take control of the subject while temporarily incapacitated.
- 7) Any accidental CEW deployments, or other unusual occurrences, should be documented in a memo to the Major. That report must be forwarded through the Chain of Command to the Lead CEW Instructor for consideration of future training needs.

e. POST-DEPLOYMENT: After appropriate medical aid and clearance, whenever a person has been exposed to a CEW:

- 1) If that person is transported to a detention facility, the transporting officer shall advise that facility's staff of the CEW exposure.

- 2) The CEW cartridge, lead wires and probes shall be collected and submitted as evidence. The probes should be treated as a biohazard.
 - 3) The supervisor shall coordinate access to the CEW's download discharge data that will be forwarded as part of the report for the administrative review.
7. **Pepperball Projectiles:** In addition to the above Chemical Agent guidelines:
- a. The department has authorized PepperBall launchers as a less lethal force system, combining chemical irritants (PAVA) and kinetic energy (impact force), which may be a response option:
 - 1) To control or subdue any person being taken into custody who is exhibiting active aggression, or whose individual actions are assaultive (high risk) and / or life threatening, leading to a reasonable belief that the person poses an imminent threat to the officer or another person and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics.
 - 2) To control or subdue a person who overtly poses an imminent and substantial threat of harm to themselves, and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics.
 - 3) To defend oneself or another from a vicious or aggressive animal.
 - b. Pepperball projectiles are considered target accurate at up to 60 feet and can create a cloud of O.C. powder at up to 150 feet. There is no minimum deployment stand-off distance. Officers should target center mass and the extremities and shall not target the face, neck, groin or spine.
 - c. The PepperBall launcher may also be used to deploy specialty rounds, as authorized. Such rounds shall not be deployed at a human being, unless deadly force is otherwise justified.
 - d. PepperBall deployment should be part of a coordinated response. Officers should advise other officers prior to deployment in order to prevent sympathetic reactionary fire.
8. **Impact Force:** Impact force, including the use of hands, feet, fists, knees and the department approved baton, provides officers with defensive options to defend themselves or others from injury:
- a. **AUTHORIZED USE:** Active resistance, active aggression, assaultive (high risk) and / or life threatening circumstances may warrant impact-type force.
 - b. **APPLICATION:** Baton strikes may be delivered to the person's Weapon Delivery System, which is the center mass of the arm, leg or body of the presented threat. The arms and the legs are vehicles which transport force against the officer and are the preferred targets at a downward 45-degree angle. A center mass straight strike can also be used to create distance, or the baton can be held at both ends and used with the length of the baton.
 - c. **RESTRICTIONS:** The baton shall not be used to strike any cooperative or passively resistant person; on a person solely due to belligerence or verbal defiance or any person who is under effective restraint; nor to rouse an unconscious, impaired, disabled or intoxicated person, or to punish, intimidate or coerce a subject, elicit information or to threaten or intimidate, without legal justification. Blows to the head, neck, spine, groin, solar plexus or rib cage may

cause death or serious injury and should not be used, unless deadly force is otherwise justified.

9. **Impact Projectiles:** To the extent that the law enforcement use of impact projectiles deployed from a firearm is considered non-deadly force under Maine law (17-A MRSA, § 101(5)), it will also be considered non-deadly force under this SOP:
 - a. **READINESS:**
 - 1) Authorized and dedicated firearms must be maintained for deployment.
 - 2) Deploying officers are responsible for verifying the weapon is loaded only with less lethal impact projectiles. Any officer who discovers lethal rounds in a designated less lethal firearm shall immediately take corrective action and report the discrepancy to a supervisor.
 - b. **AUTHORIZED USE:** Impact projectiles are intended to provide officers with another less lethal response option. Impact projectiles may be appropriate:
 - 1) To defend against what the officer actually and reasonably believes is the imminent use of deadly force; and / or a person who is armed or appears / alleges to be armed and / or is attempting to arm themselves with a potentially deadly weapon, and refuses to comply with or submit to the officer's lawful authority.
 - 2) On a person who overtly poses an imminent and substantial threat of harm to themselves, and it would be unsafe, ineffective or impractical for officers to approach within contact range, or attempt to subdue the person by other conventional tactics.
 - 3) As a "door knocker" or window opener during high-risk tactical incidents.
 - c. **RESTRICTIONS:** Impact projectiles should generally be used after other conventional tactics have been, or likely will be, ineffective or impractical under the circumstances. Without legal authority, justification and / or exigent circumstances, officers SHALL NOT use impact projectiles:
 - 1) On a cooperative or resistant person; a person solely due to belligerence or verbal defiance; or on any person whose actions are not life threatening to that person or another person; or on any person the officer knows or reasonably believes to be pregnant, elderly and / or visibly frail, to include persons known or believed to be over the age of sixty-five (65), or persons known or believed to be juveniles under the age of eighteen (18).
 - 2) In a crowd or crowd control situation, including against subjects who are physically engaged with other officers or not isolated from bystanders.
 - 3) On a person in a position where a fall would likely cause serious bodily injury or death (e.g., edge of a bridge or body of water or top of a staircase, roof, tree, or elevated structure), unless deadly force is otherwise justified.
 - 4) On a person in control of a mode of transportation (e.g., automobiles, motorcycles, bicycles, etc.), if the deployment could reasonably result in the uncontrolled movement of the vehicle.
 - 5) To punish, intimidate or coerce a subject.
 - 6) Against any person, even a volunteer, for purposes of training, demonstration or horseplay.
 - d. **DEPLOYMENT:** With supervisory approval, impact projectiles may be used as part of a coordinated and planned effort and response to a critical incident:

- 1) The intended deployment of impact projectiles should be communicated to other officers within the area of the incident in order to avoid sympathetic reactionary fire.
 - 2) Unless deadly force is justified, impact projectiles should be deployed within their optimal range, generally between 15 feet and 75 feet.
 - 3) When deploying impact projectiles, officers should target the extremities, specifically including the thigh, lower leg, buttock or lower arm. If impacts to these areas are ineffective, inappropriate or too dangerous, and the circumstances justify a potentially higher risk of injury, officers may target the lower abdomen. Officers shall not target the head, neck, center mass, spine or groin.
 - 4) In order to reduce the likelihood of injury, only one officer should deploy impact projectiles on a person at any one time. Deploying officers should attempt verbal dialogue, sight a proper target location, fire a single round and then assess the results. This sequence should be repeated, as deemed reasonably necessary and appropriate under the circumstances, with consideration being given to alternative tactics when it appears that the technique is not working, and the injury risk of multi volleys outweighs the value of continuing the deployment.
10. **Deadly Force:** Consistent with State and Federal laws and the situational use of force concept depicted above, and notwithstanding the justified use of any incapacitating force method, to include any option of availability, officers' response to resistance may require the need to resort to the use of deadly force. Officers may use departmental firearms, as trained, and consistent with state and federal laws, this SOP, and SOP #1-1B. In recognition of the sanctity of human life, although officers should make every attempt to exhaust all other means prior to the application of deadly force, any officer otherwise justified in using deadly force should but is not required to attempt the use of any alternative, less lethal or non-deadly force response options prior to the appropriate and reasonable application of deadly force.

VII. EMS RESPONSE / MEDICAL AID:

- A. Whenever an officer uses force, either deadly or non-deadly, that results in injury, or otherwise requires an EMS response or hospital transport, as outlined below, the officer shall ensure that appropriate medical aid is rendered as soon as practical. Appropriate medical aid may include increased observation, decontamination of chemical agents, applying first aid, EMS evaluation or transport and / or, for more serious or life-threatening incidents, immediate aid by emergency room medical staff.
- B. Officers shall request that EMS respond and evaluate any subject after the following uses of force:
 1. Any application of deadly force, or deployment of a firearm or impact projectile;
 2. Any police K-9 bite;
 3. Any baton strike resulting in injury or complaint of injury, or as otherwise deemed appropriate by the officer or supervisor.
 4. Any chemical agent application, including O.C. and Pepperball, as the supervisor deems appropriate for decontamination and / or medical assessment;
 5. Any CEW deployment or contact:
 - a. In general, the on-scene supervisor, another officer not involved in the use of force, or MedCU staff is authorized to remove CEW probes from a person's body. If the person was struck in the eyes, head, genitals, female breasts, or another sensitive area, the person should be

transported to the hospital, as only medical personnel will be authorized to remove such probes.

- b. The Shift Commander or on-scene supervisor shall ensure that any person who falls into one of the restricted / vulnerable classes (e.g., pregnant woman, elderly or visibly frail person, or young child), OR who is believed to have been exposed to a consecutive or cumulative CEW application of fifteen (15) seconds or more, OR who is believed to have been exposed to simultaneous applications by more than one CEW, is transported to the hospital for a medical evaluation.
6. Any other time an officer or supervisor deems it to be appropriate and / or prudent under the circumstances, to include if requested by the subject, if the subject is exhibiting signs of excited delirium, or if the subject does not appear to fully recover – or maintains symptoms of physical distress – shortly after any use of force / control application.
- C. Whenever an officer arrests or detains an individual and that person, loses consciousness, is injured or claims to be injured during the course of the arrest or detention in a manner that is unrelated to a use of force, the officer shall immediately render aid, call for Medcu, and notify a supervisor, who shall immediately respond to the scene. If an incident or force report is not required to be completed, the officer shall complete a casualty report, documenting the injury. The supervisor shall complete a supplement documenting their actions and review. Any incident involving a death while in police custody shall be handled in accordance with SOP 90A.
- D. In situations that require a casualty report, the subject must be photographed in order to document the injury. Any and all visible injuries to a subject and the scene must be photographed. An officer or supervisor other than the officer who placed the subject in custody will be assigned to take the photographs and should document any relevant statements made by the subject while being photographed. The photos should be noted in the casualty report. If a person alleges an injury, but it is not visible to the officer, photograph the area that the person claims is injured and document the allegation and the fact of no visible injury.
- E. All serious in-custody injuries require command staff notification; as outlined in SOP 48.

VIII. REPORTING:

- A. Whenever an officer acting in an official capacity response options that include deadly, less-lethal or non-deadly force against another person, including physical force greater than un-resisted handcuffing, the officer shall immediately call a superior officer to the scene or, if that is not practical, contact a superior officer as soon as possible following the incident. If a superior officer is unable to respond to the scene, that fact shall be noted in the Use of Force report.
- B. All reportable uses of force must be documented in a Use of Force report. The following are reportable uses of force:
 1. application of deadly force;
 2. physical force that involves physical force techniques to overcome resistance;
 3. the application of force by a firearm, Taser, baton, O.C. Spray, impact projectile, canine, pepperball, striking an individual with hands, feet, knees or elbow or any other weapon or implement;
 4. any time the Shift Commander, after consultation with the supervisor and officer using force, deems it reportable.

- C. In all situations that require a Use of Force report, the subject must be photographed in order to document injury or lack of injury. Any and all visible injuries to a suspect or an officer, whether or not the injuries are caused by the use of force, must be photographed. An officer or supervisor, other than the officer who applied the force, shall be assigned to take photographs and document any relevant statements made by the subject during the photographing. If a person alleges an injury, but it is not visible to the officer, photograph the area that the person claims is injured, documenting the allegation and the fact that no injury was visible.
- D. All blank spaces on the Use of Force report shall be completed by the officer who has used force. The officer shall make a diligent attempt to obtain all information necessary to complete the report. If information remains unknown after a diligent attempt, the officer shall mark such space "unknown." An officer who is a witness to a use of force may be required to complete a supplement and attach it to the Use of Force report. Upon completion of the report, it shall be forwarded to the immediate supervisor of the officer writing the report. The Use of Force report must be completed and forwarded to the officer's immediate superior officer by the end of the shift in which the force is used.
- E. In the case of an SRT or other specialty type call-out, the Major, SRT Commander, or their designee shall file an after-action report on behalf of the entire team documenting the activities of the team in detail and addressing any areas of concern related to department policy, training, equipment or tactics. Any team member that engaged in a reportable use of force during the call-out shall complete a Use of Force report or supplement at the direction of the Major or supervisor. The after action report shall be reviewed by the command staff and use of force committee, as applicable.

IX. REVIEW:

- A. The immediate supervisor of the involved officer(s) will interview the officer(s), any other officer(s) present at the use of force, the subject upon whom force was used, and any witnesses.
- B. The interviews will be recorded and geared towards determining the facts and the subject's understanding of the situation. The interviews must be recorded and then summarized by the supervisor in the review portion of the Use of Force report or related supplement.
- C. The responding supervisor should additionally ensure that any injured individuals receive immediate medical attention. If treatment at a medical facility is necessary, the supervisor should ensure that the involved officer does not transport or maintain custody of the injured individual during the medical treatment process.
- D. If the use of force results in serious bodily injury, the Shift Commander will initiate a command notification. The Assistant Chief will notify the Internal Affairs Lieutenant who will assign an investigator to begin an immediate investigation. All uses of deadly force shall be investigated as outlined in SOP 52A.
- E. The use of a firearm, the delivery of a hit or strike to a subject's head with a baton or other Heavy object or the use of a neck hold will be reviewed by the department as the use of deadly force. In cases involving these types of force that do not result in serious bodily injury, the on-duty Shift Commander will arrange for command staff notification; as outlined in SOP 48.

- F. After the investigation is completed; the Shift Commander shall review the completed Use of Force report and any supplemental reports to ensure that the Use of Force report and investigation is thorough and complete. If in the Shift Commander's judgment, the officer or supervisor has not provided sufficient details regarding the incident, they shall return the report for further clarification. Once the Use of Force report is complete, it shall be forwarded through the command review process. The Use of Force report shall not accompany nor be filed with any arrest or incident report. After a report is reviewed administratively, if it is determined that a violation may have occurred warranting investigation, the matter will be referred to Internal Affairs. If it is believed that the officer engaged in criminal conduct, the Police Chief is mandated to forward the report to the Office of the District Attorney or the Office of the Attorney General and the Director of the Maine Criminal Justice Academy. Any such matters will be handled through the Internal Affairs in lieu of the below described committee process.
- G. The Professional Standards lieutenant will maintain all Use of Force reports. This will allow for the tracking and analyzing of all such incidents.
- H. The Use of Force Review Committee, chaired by the Professional Standards lieutenant, will meet monthly to review use of force incidents in detail. In addition, the committee will consist of the Command staff, the Internal Affairs Sergeant(s), a PBA representative, a SOA representative, the Police Attorney, any subject matter experts as deemed appropriate by the Chair or Command staff, and a neutral member of the public, who is a resident of the City of Portland, appointed by the City Manager in consultation with the Police Chief. The appointee may be removed by the City Manager for any reason that is not arbitrary, to include non-participation in meetings or requisite training and violating confidentiality. Prior to participating in the committee, the civilian member will be required to attend training, provided by the city and the department, related to confidentiality requirements, legal principles in use of force review, as well as this and other relevant police department policies, training and procedures. The civilian must also participate in at least one "ride-along" within the first six months of appointment, and will annually participate in at least one ride-along and observe and participate in police department use of force and response to resistance training. The civilian member is expected to participate equally in the committee discussions, providing an additional perspective.
- I. The Chair shall schedule the committee meetings and provide the committee with all pertinent information covering the incident and officer(s) in question.
- J. The Command staff and the Use of Force Review Committee shall use the following criteria in reviewing use of force incidents:
1. Did the officer utilize an appropriate level of force for the situation;
 2. Were the officer's actions reasonable;
 3. Did the officer use department-authorized weapon systems and tools in an appropriate manner;
 4. Was the force promptly reported and correctly documented;
 5. Was the use of force consistent with the officer's training and experience;
 6. Did the officer attempt to de-escalate the situation prior to the use of force (if feasible);
 7. Did the officer place other members of the public at risk by their actions;
 8. Did the officer's actions contribute to the necessity to use force;
 9. Did the use of force policy effectively address the situation;
 10. Was department training adequate;

11. Were the use of force options available to the officer adequate to control the situation;
 12. Is there a pattern of misuse of this type of force, either by a particular officer or department-wide;
 13. Was the use of force within Department policy?
- K. After reviewing each incident, the committee will seek to identify actions that may indicate a policy or procedure violation, a training need, a policy or procedure modification or an equipment deficiency.
 - L. If the Committee does identify a problematic event, it shall recommend such steps to be taken as are necessary to correct the problem. This shall include, but not be limited to: ordering a written clarification of the incident; the filing of an internal complaint; ordering remedial training or counseling; recommending a change in standard operating procedure or recommending modifications to issued equipment. The Police Chief and Command staff retain full authority for all operational decisions, including training and discipline.
 - M. By April 1 of the following year, the Professional Standards lieutenant, shall review and compile statistics and complete an annual analysis and report to the command staff of all response to resistance reporting incidents and complaints for the preceding year. The purpose of the annual review is to identify long-term patterns or trends, which may be of concern to the Department.
 - N. All use of force incidents for the past calendar year will be analyzed by the Professional Standards Lieutenant. A trending analysis of force incidents for the whole organization and units within the organization will also be completed.
 - O. Consistent with Maine State law and with the unions' approval, all Use of Force reports may be maintained electronically. Reports will be maintained for seven years.