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VILLAGE BOARD

June 5, 2017

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Mr. Same Stecklow  
Reporter, Invisible Institute  
6100 South Blackstone Avenue  
Chicago, Illinois 60637

Re: May 30, 2017 FOIA Request

Dear Mr. Stecklow:

I am pleased to help you with your May 30, 2017 Freedom of Information Act ("FOIA"). The Village of Bensenville received your request on May 30, 2017. You requested copies of the items indicated below:

*"This is a request under the Illinois Freedom of Information Act. I request the following:*

- An organizational chart of the Bensenville Police Department (BPD)*
- Documentation sufficient to show current BPD policies regarding external/citizen complaints of police misconduct, internal complaints, investigation of police misconduct, investigation of police shootings, investigation of police use of force, and discipline of any of the above*
- Blank copies of the following:*
- A citizen/external complaint form*
- An internal complaint form*
- The form or notice filled out when an investigation into police misconduct or use of force is assigned*
- The form or notice filled out when an investigation into police misconduct or use of force is completed*
- A disciplinary action form or notice against an officer*
- The form filled out when an officer uses force*
- The form filled out when an officer uses a Taser*
- The form(s) filled out when an officer discharges a firearm and/or shoots someone"*

After a search of Village files, the following documents are enclosed to fulfill your request:

- 1) Village of Bensenville Police Department Organizational Chart. (1 pg.)
- 2) Village of Bensenville Public Safety Police Department Citizen Complaints Policy. (2 pgs.)
- 3) Village of Bensenville Public Safety Police Department Citizen Complaint Form. (1 pg.)
- 4) Village of Bensenville Public Safety Police Department Internal Affairs Policy. (5 pgs.)
- 5) Village of Bensenville Public Safety Police Department Investigation of Office Involved Deadly Force Incidents Policy. (4 pgs.)
- 6) Village of Bensenville Public Safety Police Department Use of Force Policy. (13 pgs.)
- 7) Village of Bensenville Public Safety Police Department Response to Resistance Form. (1 pg.)
- 8) Village of Bensenville Public Safety Police Department Disciplinary Procedures Policy. (5 pgs.)
- 9) Taser Supervisory Taser Cew Use Report Form. (3 pgs.)

These are all of the documents that can be discovered responsive to your request.

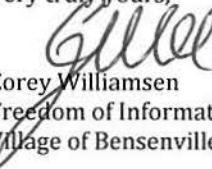
At this time, The Village of Bensenville Public Safety Police Department does not have the following:

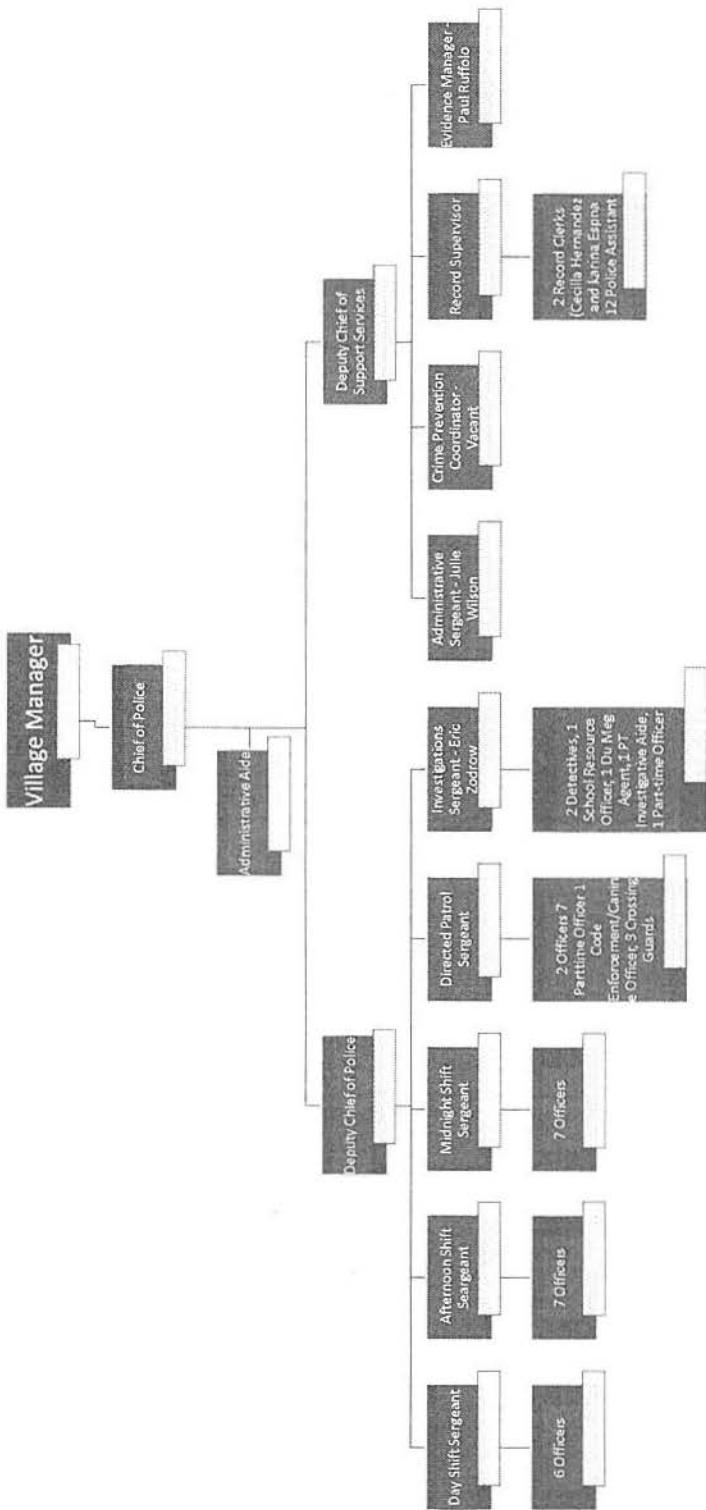
- Internal complaint policy
- Internal complaint form
- The form or notice filled out when an investigation into police misconduct or use of force is assigned
- The form or notice filled out when an investigation into police misconduct or use of force is completed
- Disciplinary action form or notice against an officer
- The form filled out when an officer discharges a firearm and/or shoots someone

Department emails or memos are used in lieu of forms for the items listed above.

Do not hesitate to contact me if you have any questions or concerns in connection with this response.

Very truly yours,

  
Corey Williamsen  
Freedom of Information Officer  
Village of Bensenville



**BENSENVILLE PUBLIC SAFETY  
POLICE DEPARTMENT**

**Title: CITIZEN COMPLAINTS**

**Procedure: 4.003**

**Date Issued: 08-06-04 Effective Date: 09-01-04**

**Rescinds: All Previous**

**Distribution: All**

**Authority: Frank Kosman, Chief of Police**

**PURPOSE:**

To clarify the procedure for handling citizen complaints.

To provide for documentation of specific allegations.

To facilitate the investigation and disposition of citizen complaints.

**POLICY:**

It is the policy of the Police Department to investigate all complaints against Department personnel, regardless of the source of such complaints. Investigations of these complaints through standardized procedures will demonstrate the Department's desire to provide honest, efficient police service and will inspire public confidence in its personnel.

**DEFINITION:**

A citizen complaint is defined as that action taken by a citizen to bring to the attention of the Department any police action or inaction that the citizen considers to be contrary to law, proper procedure, good order, or in some other manner prejudicial to the citizen, the police department, or to the community as a whole.

**PROCEDURE:**

1. A citizen complaint will be addressed whenever a citizen brings to the attention of a member of this Department a complaint concerning an action described above. Whenever a citizen requests to file a complaint against a member of this Department the on duty shift supervisor will discuss the incident with the citizen. If after discussing the incident with the supervisor, the citizen still desires to file a complaint, a Citizen Complaint Form will be provided. A citizen complaint will not be accepted that involves only the citizen's contention that he is innocent of a charge placed against him by the officer.

2. A citizen complaint may be received:

From citizens who report them to any member of the Department, either orally or in writing, by telephone or correspondence, either signed or anonymous;

through a third person; and,

by referral from some official or unofficial agency.

3. The citizen will be instructed to document, in his handwriting, as much as possible concerning the incident and will be given whatever assistance is needed to complete the form. The identity of the assisting person will be included in the narrative.

4. When the citizen is finished the Department member receiving the form will check it for legibility and sign the form. The original will be retained and the complainant will receive a copy.
5. The Department member receiving the form will record, on the back of the original complaint form, any comments or discussion with the complainant, of any significance, and the complainant's physical and mental condition. Evidence indicating that the complainant is under the influence of an intoxicant or drug, is suffering a mental disorder, or any other evidence of traits or conditions bearing upon his credibility will be noted. The Department member will also note the complainant's physical condition, specifically any visible marks or injuries relative to the complaint.
6. The original complaint will be placed in a sealed envelope and forwarded to the Chief of Police without delay.
7. A Department member accepting a complaint by telephone will complete a Citizen Complaint Form with as much information that the complainant will provide. It is essential that the complainant's name, address, and telephone number appear on the form. If the complainant insists on remaining anonymous he will be advised that this will seriously hamper a complete investigation. The complaint form will then be sealed in an envelope and forwarded to the Chief of Police without delay.
8. If a citizen refuses to write the complaint in his own handwriting the complaint will be processed as a telephone complaint.
9. The Chief of Police will assign the complaint for investigation. All investigations are confidential and the investigating officer will discuss the investigation with only those individuals that will be involved in the investigation.
10. The investigating officer will thoroughly document his investigation and all interviews conducted. The results of his investigations and findings will be forwarded, in a sealed envelope, directly to the Chief of Police.
11. After review by the Chief of Police, the complainant will be contacted by the investigating officer with the findings.
12. A record of all investigated citizen complaints will be kept by the office of the Chief of Police.

**BENSENVILLE POLICE DEPARTMENT  
POLICE DIVISION**

## CITIZEN COMPLAINT FORM

DATE \_\_\_\_\_

COMPLAINANT \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_

THE BENSONVILLE POLICE SUPERVISOR

THE BENSENVILLE POLICE SUPERVISOR

OTHER NAME \_\_\_\_\_

**Please be specific about what your complaint is and include the name(s) of the officer(s) involved. Please give the date, time and location at which you had contact with the officer(s). Also include names and addresses of witnesses, if available. If you need assistance, advise the Supervisor that gave this form to you.**

(Please continue on back if necessary)

Signature of Complainant \_\_\_\_\_

Signature of the Police Supervisor Receiving the Complaint \_\_\_\_\_

The Bensenville Public Safety Department (Police Division) will take any and all allegations made against its members regarding illegalities and or improprieties very seriously. The Bensenville Public Safety Department (Police Division) will investigate to the fullest extent all allegations. If during such investigation it is determined that any portion of such allegation or all of the allegation(s) are false, the complainant of such allegation(s) may be subject to criminal prosecution for filing a false police report.

I understand the above statement.

**Signature of Complainant**

Date

**BENSENVILLE PUBLIC SAFETY  
POLICE DEPARTMENT**

**Title: INTERNAL AFFAIRS** **Procedure: 4.701**  
**Date Issued: 08-06-04 Effective Date: 09-01-04** **Rescinds: All Previous**  
**Revised: 09-17-13 Revision Effective Date: 10-01-13**  
**Distribution: All Authority: Frank Kosman, Chief of Police**

**PURPOSE:**

To provide guidelines and procedures for prompt investigation and just disposition of complaints against Police Department personnel.

To establish an internal affairs component and define the basic functions necessary to ensure the integrity of the Department.

**POLICY:**

It is the policy of the Police Department to investigate all complaints against Department personnel, regardless of the source of such complaints. Investigation of these complaints through standardized procedures will demonstrate the Department's desire to provide honest, efficient police service and will inspire public confidence in its personnel. A regulated program of complaint review will also ensure the fair and impartial treatment of all Department personnel who become subject to the internal affairs procedure. (Adm 18.02)

**DEFINITION:**

A citizen complaint is defined as that action taken by a citizen to bring to the attention of the Department any police action or inaction that the citizen considers to be contrary to the law, proper procedure, good order, or in some other manner prejudicial to the citizen, the Department, or to the community as a whole.

**PROCEDURE:**

***AUTHORITY AND RESPONSIBILITY (Adm 18.04 A & B)***

1. The Chief of Police's designee is responsible for the Internal Affairs function with the authority to report directly to the Chief of Police.
2. The internal affairs function is established to provide a regulated process of complaint review and to:
  - establish an investigative process;
  - ensure fair and impartial treatment of accused members;
  - maintain justice;
  - adhere to legal statutes; and
  - maintain the integrity of the Department.
3. Activities of the internal affairs function include, but are not limited to:

recording, registering, and controlling the investigation of complaints against Department personnel; supervising and controlling the investigation of alleged or suspected misconduct within the Department; and maintaining the confidentiality of the internal affairs investigation and records. (PER 02.03)

4. While the internal affairs function is the responsibility of the Chief's designee, a first line supervisor will not look to a higher authority to initiate an investigation when the complaint is within the scope of his own authority and responsibility, except when complex investigations deem such assistance necessary.

5. Each supervisor will assume the duties and obligations of his position or rank during the investigation of a complaint against a member of this Department.

6. The type and nature of a complaint will determine whether it can be handled and resolved at the line supervisor level or referred to the Chief of Police for assignment.

7. Not all complaints can be automatically categorized. Supervisors are required to exercise good judgment and common sense when they are made aware of a complaint. The following types of complaints are examples of those which are categorized as formal and informal. Both forms of complaints require documentation and automatic referral to the Chief of Police. The Chief of Police will, after reviewing the entire incident, determine the category and delegate for investigation to the Chief's designee.

**FORMAL (Normally investigated by Internal Affairs Function) (Adm 18.03 A & B)**

brutality;  
misuse/abuse of force;  
breach of civil rights; and  
criminal misconduct.

**INFORMAL (Normally investigated by the immediate supervisor) (Adm 18.03 A & B)**

poor demeanor displayed by employee; and  
improper action or failure to take action.

8. A supervisor may, for a period not to exceed the member's regular or remaining tour of duty, temporarily relieve from duty, a member because the member is unfit for duty. (Unfit for duty may include: any physical or mental condition which might, in the judgment of the supervisor, render the member incapable of adequately performing duties, or performing in such a way as to embarrass or discredit the Department, or jeopardize the safety of any person or property, or misconduct.)

9. Supervisors will conduct a preliminary investigation whenever receiving a complaint from a citizen concerning misconduct by a member of the Department. Results of the preliminary investigation will be sent directly to the Chief of Police. The report will outline the allegations, identify principals and witnesses, and provide information developed during the preliminary investigation.

10. When an employee is notified he has become the subject of an internal affairs investigation, the person in charge of the investigation will issue the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.

The rights of those sworn officers who fall under the Board of Fire and Police Commission are set out in the Illinois Complied States 65ILCS 5/10-2.1-17, 50 ILCS 725/1-7, and within the body of this order. (Adm 18.05 A & B)

This directive is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety of care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Bensenville Police Department and then only in a non-judicial hearing.

11. Any matter that arises under the Uniform Peace Officers Disciplinary Act will be processed according to the Department's Rules and Regulations, policies, and procedures.

12. The Chief of Police will maintain a record of all complaints against the Department or its members. The complaints, records and results of the investigation will be maintained in a secure area to protect the confidentiality of all documents associated with the investigation. (Adm 18.04C)

13. Information on registering complaints with the Department will be made available to the public. Procedures for filing a complaint against the Department or a member are available through the Office of the Chief of Police or the shift supervisor. (Adm 18.01)

#### **COMPLAINT PROCESSING**

1. All complaints made against the Department or its members will be investigated, including anonymous complaints. In person complaints will, in all possible cases, be taken by the on duty supervisor. Complaints may be made in several ways:

in person by the citizen, directly to a police department supervisor;

by telephone;

through a third person; and

by referral from some official or unofficial agency.

2. When a citizen requests to file a complaint in person the supervisor on duty will do the following:

Discuss the incident with the citizen. If after discussing the incident with the supervisor, the citizen still desires to file a complaint, a Citizen Complaint Form will be provided.

Provide the complainant with a Citizen Complaint Form, appendix A, and request the citizen to complete the form in his handwriting and sign the form. The form may be taken home by the complainant and completed later. In this case the supervisor will instruct the complainant to mail the form directly to the Chief of Police and to mark the envelope "Confidential".

After the complainant has completed the form the supervisor should review the contents for legibility. If acceptable the supervisor will sign the form and give a copy to the complainant and inform the citizen that his complaint will be investigated.

The supervisor will then make any relevant comments on an attached memorandum or printed e-mail regarding the complainant's physical and mental condition. Evidence indicating that the complainant is under the influence of an intoxicant or drug, is suffering from a mental disorder, or any evidence of traits or conditions bearing upon his credibility should be noted. The supervisor should also note the complainant's physical condition, specifically any visible marks or injuries on the complaint.

When appropriate, and if possible, the supervisor will conduct a preliminary investigation.

The original copy of the complaint will be placed in a sealed envelope and forwarded to the Chief of Police before the supervisor ends his tour of duty.

3. Citizen complaints received by telephone will be handled in one of the following manners: A Department member accepting a complaint by telephone will enter, on a Citizen Complaint form, all pertinent information and attempt to obtain the facts necessary and

appropriate to complete the report. The words "Telephone Complaint" will be entered in the complainant's signature box.

It is essential that the complainant's name, address and phone number be included in the report. If the complainant insists on remaining anonymous, he should be advised that this may hamper a complete and thorough investigation.

The member completing the form will sign the form and place it in a sealed envelope and forward it to the Chief of Police.

At the complainant's request, a supervisor may mail a complaint form to the complainant.

4. A copy of the complaint will be given or mailed to the complainant, if known, and will serve as written verification to the complainant that their complaint has been received by the Chief of Police for processing.

#### ***COMPLAINT ASSIGNMENT AND INVESTIGATIONS***

1. The Chief of Police will assign a control number to the complaint and assign the Chief's designee, or another member of the Department if more appropriate, to follow up and investigate the complaint.
2. Any member of the Department assigned to investigate a complaint will conduct a thorough and impartial investigation. Such investigation will include the taking of written statements, when deemed necessary, from all involved persons, the gathering and preservation of evidence, and the recording of all information pertinent to the investigation.
3. When conducting an internal affairs investigation concerning possible violations of criminal law, the investigating member will contact the Prosecutor's Office to seek legal advice as well as assistance in case preparation. If necessary, a liaison will be established with the Special Prosecutions Division of the Prosecutors Office. (Adm 18.04A)
4. The member assigned to the investigation will keep the complainant informed of the status of the investigation, within certain limits. The complainant should be informed of the investigative process and time table involved. All statements and/or findings regarding guilt or innocence are to be addressed by the Chief of Police. The investigating member should not offer an opinion concerning the outcome of the investigation to the complainant. (Adm 18.06 A)
5. Personnel assigned to investigate complaints will complete their investigation within thirty (30) days of the assignment date with status reports to the Chief of Police every seven (7) days. Extensions may be granted by the Chief of Police to the thirty (30) day limit, but only in those cases involving extenuating circumstances.
6. The investigating member will only report the results of his investigation and findings to the Chief of Police. The Chief of Police may authorize the Chief's designee to advise the officer's supervisor of the findings. All investigations will be concluded with a recommendation by the investigating member. Complaints and disciplinary investigations can result in any of the following types of closures: (Adm 18.02)

#### ***SUSTAINED***

***Allegation is supported by sufficient evicence***

#### ***NOT SUSTAINED***

This directive is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety of care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Bensenville Police Department and then only in a non-judicial hearing.

*Insufficient evidence to prove or disprove the allegations.*

**EXONERATED**

*Incident did occur but the actions taken were lawful and proper.*

**UNFOUNDED**

*Allegation is not factual; did not happen.*

7. An employee under investigation cannot be compelled to submit to a polygraph, voice stress analysis, or any other instrument designed to detect deception. However, an employee under investigation may voluntarily submit to such an examination after being made aware that such actions are strictly voluntary and refusal to submit does not imply any guilt or admission of the violation. (Adm 18.05C)
8. Any member or employee who is the subject of an internal affairs investigation may be required to provide or submit to any or all of the following, if materially related to the investigation:  
Medical or psychiatric examinations;  
Lineups;  
Chemical tests;  
Photographs;  
Respond completely and truthfully to all questions; and  
Search of Village property including lockers. (Adm 18.05C)
9. The investigated employee shall be notified of the status and disposition by the Chief of Police. (Adm 18.06C)
10. All records pertaining to internal affairs investigations will be kept in a secure area by the individual conducting the investigation. (Adm 18.04C)

**BENSENVILLE PUBLIC SAFETY  
POLICE DEPARTMENT**

**Title: Investigation of Officer Involved Deadly Force Incidents      Procedure: 2.005**

**Date Issued: 2-16-16      Date Effective: 02-26-16      Rescinds: All Previous**

**Distribution: All**

**Authority: Frank Kosman, Chief of Police**

**Purpose:**

It is the purpose of this document to provide guidelines for the investigation of officer involved deadly force incidents.

**Procedure:**

Upon notification that an officer has been involved in a high level use of force, the on-duty supervisor will immediately respond to the scene. The initial responsibilities of the responding supervisor (and back-up officers) are:

1. Determine if the scene is safe to approach and which approach is best;
2. Assess the scene for injuries to officers and others. Treat and transport;
3. Determine if suspects are still at large. Obtain a description and initiate a search;
4. Secure the scene. Identify evidence that will be lost or contaminated;
5. Identify and control witnesses.
6. Request appropriate manpower response. In case the supervisor is not present, notify the Sergeant. The Sergeant is to ensure that Investigations Unit, the Deputy Chief of Operations and the Chief of Police are notified. In case the supervisor is involved in the shooting and is unable to make the notification, the most senior officer will notify the Investigations Unit, the Deputy Chief of Operations and the Chief of Police.

Upon initial response, the supervisor should focus his/her attention on officer safety and public safety concerns. The supervisor will need to determine a brief accounting of what happened. However, this early stage should focus on what happened and what areas are to be included in the scope of the investigation. This will require the involved employee(s) to provide immediate investigative information which shall consist of but not be limited to:

1. Is the employee or others injured?
2. Are there any suspects not in custody?
  - a. If so, what are their descriptions and/or I.D.?
  - b. What was their direction of travel?
  - c. For what crimes are they wanted?
  - d. With what weapons are they armed?
3. What evidence is at the scene that may be lost or contaminated
  - a. Suspect's weapon?
  - b. Where is it?
4. Were there any witnesses?
  - a. If so, what are their descriptions and I.D.?
  - b. Have they left the scene?
5. What was the direction of known gunfire (by suspect and/or employee)?

More preliminary questions may be asked if needed to help locate the offender(s) or potential victim(s).

Detailed explanations or justifications of officer actions are premature and not necessary at this point in time.

After securing the scene and witnesses, focus should be moved to the involved officer(s). The Department recognizes that officers involved in shooting situations or other high level uses of force are likely to experience one or more of the following physiological reactions:

1. A sense of slow motion, caused by accelerated thought process;
2. A sense of detachment, including auditory blocking;
3. Tunnel vision;
4. A skewed sense of time and space relations;
5. Nausea or Vomiting;
6. Involuntary urination;
7. Speech impairment;
8. Uncontrollable crying;
9. Shock;
10. Guilt;
11. Anger;
12. Disbelief.

The Department's goal is to minimize the negative effects of any of the above reactions.

The involved officer(s) should be removed from the scene as soon as possible

The employee shall be transported to the hospital for evaluation and/or treatment. A police employee, preferably a friend (if applicable/if not involved in the incident already) shall accompany the involved employee(s) and remain with him/her.

The involved employee(s) shall not clean, remove, or alter clothing so that potential evidence would be destroyed until authorized by a member of the Investigating entity, or required by medical necessity.

The officer(s) should not be isolated. The officer(s) should be allowed to take a break. The officer should be allowed to arrange to have him/her contact his/her family, clergy, and/or legal counsel.

#### **On-Scene Investigation**

Secure and protect the crime scene.

Begin a detailed witness canvass. Identify all witnesses and persons present who indicate that they did not witness anything. Do not interview. Witnesses should be controlled until the interview is to take place. Consideration should be given to transporting the witness or witnesses to the police station to await interview. In case a witness absolutely needs to leave, detailed contact information should be gathered and he/she should be informed that the interview will take place in the very near future.

Evidence Technicians will be assigned to begin evidence identification. Only scene documentation (photographs, sketches, measurements) will be done initially. Evidence will not be disturbed, moved or collected until specific permission has been granted by the lead investigator. An exception to this is allowed when evidence is at risk of being destroyed or contaminated if not collected immediately.

Any firearms, non-lethal weapons or other instruments involved in the incident will be collected by evidence technicians and held for investigation. The transfer of weapons should be out of public view and the officer should be issued a replacement weapon at this time if he or she so requests. In situations involving the discharge of a firearm, the firearm will be replaced with an available replacement if the officer requests. The firearm used in the incident will be submitted to the investigating entity. The firearm should remain in the condition that it was recovered (loaded) with proper warnings on the evidence packaging when it is given to the investigating entity's evidence technician. The holster and duty rig with all attached equipment will also be submitted to the investigating entity's evidence technician. An exterior vest carrier may need to be submitted, depending on the equipment that it contains (spare magazines, etc.).

#### **Assignment of Investigator(s) or Request of Outside Agency Assistance**

The investigation of officer involved deaths shall normally be conducted in two separate parts and by two separate authorities- a criminal investigation and an administrative investigation. The criminal investigation is normally completed by homicide investigators prior to the administrative investigation. Although, circumstances may dictate that concurrent investigations be undertaken. The administrative investigation is often conducted by the internal affairs authority and/or the State's Attorney's Office.

Officer involved death (criminal) investigations are performed in compliance with 50 ILCS 727/1-10. There shall be at least two investigators. The lead Investigator shall be certified as a Lead Homicide Investigator. No investigator shall be employed by the involved agency. Except in regards to motor vehicle crash deaths. Motor vehicle crash deaths may be investigated by the involved agency, provided the investigator is certified by ILETSB as a Crash Reconstruction Specialist. A complete report will be provided to the State's Attorney. The Chief of Police or his designee shall publicly release an investigative report.

The Chief of Police, or his designee, will request assistance from the DuPage County Major Crimes Task Force or the Illinois State Police to investigate the incident.

The following procedures will be utilized if the DuPage County Major Crimes Task Force or the Illinois State Police are requested:

- a. Contact the DuPage County Major Crimes Task Force at 630-407-2400 and request a Major Crimes call out be made or the Illinois State Police at 847-294-4679 and request their Public Integrity Task Force call out.
- b. After the on-duty detective is informed of the incident, s/he will notify the detective supervisor who will activate their investigation team. They generally respond to the scene within an hour after receiving notification.
- c. The investigations team will contact the DuPage County States Attorney's Office to assist with the investigation.
- d. The investigations team will provide a detailed written report of the investigation to the Director of Police after all of the evidence has been processed and all outside reports

are available. The information obtained as a result of a criminal investigation may be used for the purpose of the administrative investigation.

Obtaining a complete statement from an officer involved in a deadly force incident is essential. The Department recognizes scientific studies finding that physiological responses during a traumatic event lead to immediate recall issues, as well as the effects of trauma on event recall and the benefits of sleep to improve memory of a traumatic event. (1.3.8)

1. A reasonable recovery time of at least 2 days shall be allowed before any questioning, except for limited questioning critical to the on-scene investigation. Two sleep cycles are needed to most effectively allow accurate recall of details. (1.3.8)
2. During the recovery time, the employee may speak with family members, clergy, psychologist/psychiatrist/medical doctor and/or legal counsel.
3. Prior to the interview(s), if feasible, the employee and their legal counsel will be afforded the opportunity to do a scene walk-through. The purpose of the walk- through is to facilitate memory. Research has shown that this is effective in facilitating the most effective and clearest memory of events.

#### **After Incident Actions**

See Post Shooting/ Traumatic Incident procedure 2.001.

## BENSENVILLE POLICE DEPARTMENT

**Title: USE OF FORCE****Procedure: 2.000****Date Issued: 3-16-11****Effective Date: 03-16-11 Rescinds: All Previous****Revised: 11-14-13, 5-29-14, 10-04-16 Revision Effective Date: 10-11-16****Distribution: All****Authority: Frank Kosman, Chief of Police****PURPOSE:**

To establish Department guidelines on using both lethal and less than lethal force.

To provide for the proper documentation and investigation of incidents involving the use of force.

**POLICY:**

It is the policy of the Police Department to provide clear procedures to sworn members regarding the use of lethal force in the performance of their duties. The safety of innocent persons and officers is of paramount importance.

The use of less than lethal weapons is classified as a use of force and is governed by this policy. The officers of this agency are authorized to carry less than lethal weapons so that they may successfully defend themselves and others from combative, resisting and/or violent individuals. A less than lethal weapon is not necessarily a replacement or substitute for other authorized weapons, devices and/or techniques and therefore should be used when, in the officer's opinion, it is the best choice of weapon in a use of force situation. A less than lethal weapon is another tool that can be used at the discretion of the officer when the decision is made that the use of force is necessary and reasonable under the circumstances. As with any use of force, the officer is accountable to this agency for the use of a less than lethal weapon.

Only force reasonably necessary to defend a human life, effect an arrest or control a person shall be used by sworn officers of the Police Department. The force used by an officer shall only be that which is necessary to overcome the resistance being offered by an offender and to effect lawful objectives. (ADM 05.01A) (1.3.1)

All sworn personnel must be issued copies of, and instructed in the Department's Use of Force procedure before carrying any firearm or other police weapon. Sworn personnel will receive training within every calendar year thereafter in use of force. (ADM 05.02A, B & C) (1.3.12)

**LAW: (ADM 05.01C) (1.3.2)**

Certain state statutes form the reference on which this Department's use of force policy is based. These laws are included in this procedure for reference purposes. Employees must be aware of prohibitions and restrictions in this procedure that place a higher standard on the use of force than are contained in state statute.

***720 ILCS 5/7-5. Peace Officer's use of force in making arrest.***

A peace officer ... need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest. He is justified in the use of any force which he **reasonably believes** to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using **force likely to cause death or great bodily harm** only when he **reasonably believes** that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he **reasonably believes** both that:

This directive is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety of care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Bensenville Police Department and then only in a non-judicial hearing.

Such force is necessary to prevent the arrest from being defeated by resistance or escape; and,

The person to be arrested has committed or attempted a **forcible felony** which involves the **infliction or threatened infliction of great bodily harm**, or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

*720 ILCS 5/7-8. Force Likely to cause death or great bodily harm.*

Force which is likely to cause death or great bodily harm ... includes the firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm, and the firing of a firearm at a vehicle. A peace officer's discharge of a firearm using ammunition designed to disable or control an individual without creating the likelihood of death or great bodily harm shall not be considered force likely to cause death or great bodily harm....

**DEFINITIONS:**

*720 ILCS 5/2-19. "Reasonable belief".*

**"Reasonable Belief or Reasonably Believes"** means that the person concerned, acting as a reasonable man, believes that the described facts exist.

*Deadly Force:*

**"Force which is likely to cause death or great bodily harm is "**

The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

The firing of a firearm at a vehicle in which the person to be arrested is riding.

**Great Bodily Harm** is serious bodily injury that creates a substantial risk of death, causes serious or permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

*720 ILCS 5/2-8. "Forcible felony".*

**"Forcible felony"** means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against an individual.

*Non-deadly force*

Force, which, when properly applied, is less likely to cause death or great bodily harm.

**PROCEDURE:****LEVEL OF FORCE CONTINUUM:** (ADM 05.01B) (1.3.4)

1. When the use of force is necessary and appropriate, members shall, to the extent possible, use an escalating level of force and will not employ a more forceful measure unless it is determined that a lower level of force would not be adequate, or such level of force is attempted and actually found to be inadequate.

**LEVEL 1: Officer's Presence** - An officer's appearance may be enough to dissuade some persons from engaging in resistive behavior. Factors which contribute to this level include perceptions of the officer's attitude, ability, and self-confidence.

**LEVEL 2: Verbal Direction** - Dialogue used by an officer can serve to diffuse potentially violent confrontations. It is important to observe that this level concerns WHAT an officer says and HOW he says it. The factors involved in this level include the officer's language, tone of voice, and confidence and/or posture and body language.

**LEVEL 3: Empty Hand Control, Use of O/C Spray, Use of X26 Taser --**  
"Soft" techniques which have minimal chance of causing serious injury. These techniques include some pressure point control techniques and joint manipulations. "Hard" techniques that have a probability of causing injuries. These techniques include punches and leg strikes. The use of O/C spray or the X26 Taser is authorized if, in the opinion of the officer, the use of empty hand techniques would pose unnecessary risk of injury to the offender and or the officer or if empty hand technique would be ineffective in gaining control of the offender.

**LEVEL 4: Impact Weapons** - An officer may need to resort to the use of an impact weapon to control resistive behavior. These "hard" techniques have a probability of causing injuries. These techniques include impact weapon strikes.

**Impact Weapon:** A weapon (e.g., straight baton, collapsible baton, less lethal bean bag projectile or flashlight) which causes blunt trauma upon striking the soft tissue or skeletal frame of the human body to impair an individual's mobility or motor functions.

**LEVEL 5: Lethal Force** - Lethal force can be realized through the application of a variety of measures. Although commonly related to an officer's use of a firearm, lethal force can also be applied by use of severe hard empty hand control or hard intermediate weapon control techniques. The application of any chokehold shall be considered lethal force.

**NOTE:** It is not the intent of this part of this procedure to direct officers to try each of the level options before escalating to the next. Each situation will dictate at which level a member will start.

*The United States Supreme Court Decision No.87-6571 Graham v. Conner ruled an officer must apply constitutionally appropriate levels of force, based on the unique circumstances of each case. In the words of Chief Justice William Rehnquist, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgements- in circumstances that are tense, uncertain and rapidly evolving- about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application." (ADM 05.01B)*

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**DEADLY FORCE: (ADM 05.01C) (1.3.2)**

1. Members of the Police Department shall, when feasible, exhaust all reasonable alternatives before resorting to the use of deadly force.
2. The use of deadly force must be based upon **reasonable belief** by the officer that such force is necessary.
3. Deadly force must never be used against any person based on mere suspicion alone.
4. An officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's life, or in defense of any person in immediate danger of great bodily harm.
5. Deadly force may only be used against a "fleeing felon" when the officer reasonably believes that the action is in defense of human life, including the officer's life, or in defense of any person in immediate danger of great bodily harm. (ADM 05.01D)
6. This directive is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense concerning third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this Department and then only in a non-judicial administrative setting.
7. Use of deadly force against a fleeing forcible felony suspect is prohibited unless the officer has probable cause to believe that the use of deadly force is warranted based on the limitations as set forth in this procedure.

*United States Supreme Court decision U.S. 105 S. Ct. 1694 (1985) (Tennessee vs. Garner) ruled that the use of deadly force to prevent the escape of a suspected felon violates the Fourth Amendment prohibition against unreasonable seizure if used against an apparently unarmed, non-violent suspect (the case involved a burglary suspect). The Supreme Court further stated that deadly force may be used against an offender who has attempted or committed an offense involving the infliction or threatened infliction of great bodily harm. Deadly force may not be used against an unarmed, non-violent, property crime offender. (ADM 05.01D)*

*The United States Supreme Court decision went on to state that when an officer is justified in the use of deadly force he will, if feasible, first give a verbal warning. (Example: "Police Officer, Halt").*

**PROHIBITIONS**

1. No shots will be fired from moving vehicles or at moving vehicles unless an imminent or immediate threat to life is perceived by the officer.
2. No warning shots will be fired. (ADM 05.01E) (1.3.3)
3. No shots will be fired into buildings or through doors, windows or other openings unless the situation becomes one of self defense or defense of other lives.

**NON-DEADLY FORCE: (ADM 05.01B) (1.3.4)**

1. Officers are justified in the use of force they reasonably believe necessary to effect an arrest. They need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest.

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2. Officers are justified in the use of force against another when and insofar as the officer reasonably believes that such conduct is necessary to defend the officer or another person against the imminent use of unlawful force.
3. Only the amount of force reasonably necessary to effect an arrest or control a person shall be used.
4. Force shall not be used punitively and officers will always discontinue the use of force when the offender stops resisting.
5. A Department specified and approved police baton, ASP, less lethal bean bag projectile, Oleoresin Capsicum chemical agent, or Taser are the only authorized less lethal weapons. Officers are prohibited from using or carrying blackjacks, saps, weighted gloves, etc.
6. The baton may also be used as a barricade or repelling device in crowd control situations, or a temporary restraining device.
7. The Department provides officers with a rechargeable flashlight system. Officers using these flashlights in low light conditions are considered to possess a defensive tool. If a situation makes necessary the use of the flashlight as a defensive tool, it will be used in a manner consistent with the use of similarly approved less-than-lethal weapons.
8. The deployment and use of less lethal bean bag projectiles is a decisive action that can assist in achieving the goal of protection of life and property and/or the restoration of order. A less lethal bean bag projectile should be considered whenever the use of less lethal options would assist in enabling an arrest, restoring order, and/or reducing the risk of a more serious injury. Circumstances justifying the use of less lethal bean bag projectiles include but are not limited to restoration or maintenance of order during civil disturbances, safely controlling violent persons, subduing vicious animals, and situations wherein the officer deems their use necessary to safely resolve the incident.
9. Officers will provide for appropriate medical attention to any subject injured as a result of an officer's use of physical force or a lethal or less lethal weapon. Officers shall summon appropriate medical attention for any subject struck with a less lethal bean bag projectile as soon as feasible. (1.3.5)

### **USE OF O/C SPRAY**

1. O/C Spray is considered to be a non-deadly weapon.

An officer need not attempt empty-hand control before using O/C Spray. The officer need only justify that empty-hand skill would not be sufficient or practical to safely and effectively place an offender under control.

O/C Spray is generally useful against drug abusers, emotionally disturbed persons, intoxicated persons, violent individuals who have reduced sensitivity to pain, and animals.

O/C may be used to effect the removal of a person(s) from a locked vehicle who refuses to exit when lawfully ordered to do so by an officer.

O/C may be released into a building to effect the removal of a person(s) who refuses to voluntarily exit the building and may also be used when a forced exit is necessary.

Officers should avoid the use of O/C Spray in situations where the use of O/C could reasonably cause panic (e.g., hospitals, dark crowded theaters, etc.).

2. Officers who employ the use of O/C Spray should do so as a means of obtaining control of an individual and shall never be used for any other unlawful purpose, such as a means of dispensing punishment.

Only that amount of O/C Spray reasonably needed to obtain control of an individual should be used. Once the desired results have been achieved, the officer will stop dispensing O/C.

Primary targets of O/C Spray are the face, eyes, nose and mouth.

3. Officers should consider the following, in addition to specific officer subject factors, when deciding whether or not to use O/C Spray in a use of force situation:

Distance from the individual to be sprayed (generally recommended to be between 3 and 12 feet);

Environmental conditions (e.g., wind, rain, snow, etc.);

Potential hazards to the individual after being sprayed with O/C that could cause injury (e.g., walking into traffic, falling off elevated surfaces or stairs, etc.);

The presence of infants (birth to two years of age). If infants are in the immediate area the use of O/C Spray should be avoided if possible.

4. After spraying an individual with O/C, and control of that person has been obtained, the officer will make reasonable efforts to allow the individual relief from the discomfort associated with the application of O/C. Reasonable decontamination or relief efforts may include (as is practical under the circumstances of a situation);

Calming the individual;

Removing the person from the affected area to an area of fresh air or other form of ventilation;

Instructing the individual to blow his nose;

Allowing the individual to flush affected areas with saline solution or clear water;

Allowing the individual to wash exposed skin with soap and water;

Allowing the individual to remove contact lenses;

Advising the individual not to rub affected areas or to apply any type of salve to affected areas;

Apply decontamination solution supplied by the Department;

Summoning paramedics if the person complains of injury, or if the officer reasonably believes that the person needs medical attention.

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5. When an officer is attacked by an offender who is threatening the use of O/C Spray (or any other chemical agent), the officer should try to avoid being sprayed. Should an officer need to use force on an individual who is threatening the use of O/C Spray, such force should be necessary and reasonable.

## **USE OF THE X26 TASER**

The purpose of this procedure is to authorize the use of a Conducted Electrical Weapon (CEW) as a control measure. All sworn officers must meet and comply with the requirements of this procedure. The device authorized for use is the X26 Taser manufactured by Taser International.

The X26 Taser is a Conducted Electrical Weapon (CEW). It is a defensive weapon, which is listed in the force continuum at the same level as aerosol chemical sprays.

## **DEFINITIONS**

- A. *X26 Taser* - An electro-muscular disruption weapon that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject.
- B. *Drive Stun* - A secondary function of the Taser is to stun a subject by making direct contact with the body after the air cartridge has been expended or removed. The Drive Stun causes significant localized pain in the area touched by the Taser but does not have a significant effect on the central nervous system.
- C. *Air Cartridge* - A replaceable cartridge for the Taser which uses compressed nitrogen to fire two barbed probes on thin connecting wires sending a high voltage/low current signal into a subject.

## **MANDATES**

- A. The X26 Taser, when holstered, shall have the safety in the down/ activated position AT ALL TIMES. This is to prevent an accidental discharge when holstered.
- B. All O/C Spray carried by department personnel shall be NON-FLAMMABLE.
- C. The use of O/C spray in conjunction with the X26 Taser is *prohibited*.
- D. The X26 Taser may be carried on the exterior vest cover within a properly structured compartment, or in a holster on the duty belt. The X26 Taser shall be carried on the support side, and a cross-draw is optional; it shall *not* be carried on the strong side. This is to avoid confusion with the firearm in stressful situations.
- E. The X26 Taser must be kept dry at all times. If the X26 Taser becomes wet due to poor weather conditions or is dropped into fluids its use is prohibited until properly dry.

## **MAINTENANCE**

- A. At the beginning of each shift the Taser will be inspected for damage and cleanliness.

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B. Batteries and cartridges will be replaced when the battery display indicates a reading of 20% or less. Otherwise, the battery pack will not be removed from the Taser except when the reading is 20% or less or to conduct a data download.

C. The Taser will never be stored more than 48 hours without the battery pack attached. When off duty, the Taser must be stored and secured in a climate-controlled area (i.e. locker), *not in a vehicle*.

D. Officers must conduct a spark check at the beginning of shift to ensure the Taser will function properly. A spark check is an equipment check conducted *outside* of public view to ensure the Taser is operable. It is conducted by removing the cartridge, test firing the weapon and observing the electrical arc.

## DEPLOYMENT

A. The decision to use the CEW is based on the same criteria an officer uses when selecting to deploy chemical spray or a baton. The decision must be made dependent on the actions of the subject(s) or the threat facing the officer(s), and the totality of the circumstances surrounding the incident. In any event, the use of the CEW must be reasonable and necessary.

B. The CEW is not meant to be used in deadly force situations. The CEW should not be used without a firearm back up in those situations where there is a substantial threat present.

C. All officers must be certified as an end user by a Taser Certified Instructor prior to being authorized to deploy the device in the field. This training shall consist of a minimum of six hours of instruction with the successful completion of a written exam and proficiency exam. In addition, the officer must attend annual in-service training to remain certified.

D. An officer is authorized to use the X26 after he/she has clearly displayed a physical presence and thus identified themselves as a police officer by making identification if they are not in uniform or clearly bearing official title. The officer must also give verbal warning and verbal commands to a resisting subject or arrestee if the situation allows that a Taser will be utilized if compliance with commands is not met. Verbal warnings and commands would not be necessary if reaction time was of the essence to officer safety or the safety of others. A suspect failing to comply and showing NO INTENTION OF COMPLIANCE to an officer's official, lawful instructions may be incapacitated by the use of the X26 Taser.

E. The use of this weapon should, in most cases, eliminate the need for actual hands-on active countermeasures and the possibility of an officer or suspect injury. Officers may utilize soft empty hand control tactics prior to the use of the X26 Taser based upon the totality of the circumstances. The officer is not required to attempt soft empty hand control tactics if the officer believes that they would be ineffective and/or the officer believes the use of the X26 Taser would reduce the likelihood or possibility of more serious injuries to the subject, the officer, and third parties.

F. The X26 Taser may also be utilized on a suspect, previously under control, who suddenly reacts violently and requires immediate attention during the post arrest and/or booking process. *However, it must be noted that every use of the X26 Taser is a separate use of force and must be justified.*

G. The use of the X26 Taser is intended solely as a control device to minimize injuries to officers and suspects. Its purpose is to enable the officer to carry out his/her duties in a safe, efficient and most professional manner. The timely and appropriate use of the X26 Taser can greatly reduce injuries to both officers and suspects. Any escalated use of force may be thereby avoided.

H. The X26 Taser is not a substitute for deadly force and should not be used in those situations. Deployment of the X26 Taser should be backed up with the availability of lethal force if the officers on scene deem such requirement is necessary.

I. The lower half of the body from a forward facing position, midway from the upper stomach just below the chest downward should be the primary target area when firing the probes of the X26, particularly center mass of the back, as clothing tends to be tighter on this part of the body. The head, face, nor eyes should not be targeted unless the appropriate level of force can be justified. It is to be used as a way of averting a potentially injurious or dangerous situation. The X26 Taser may also be used in drive-stun mode, whereas the firing cartridge is removed by the officer that contain the probes and the X26 Taser is placed directly upon the subject within the guidelines of the above mentioned areas about the body.

J. When fired the X26 Taser emits a sound similar to small caliber gunfire, although it is significantly lower in volume. Thus to reduce the likelihood of an accidental discharge of a backup officer due to a "sympathetic fire response" the officer deploying the X26 Taser should take appropriate steps to ensure safety. Anytime the X26 Taser is to be deployed in a tactical setting, the officer using the X26 Taser shall announce that he/she is about to deploy by saying "Taser!" in a clear and audible tone, so that other officers will be aware that the shot is from a X26 Taser and not a firearm. Surrounding agencies of the Bensenville Police Department should be notified that this department is now utilizing the X26 Taser. This will further decrease the likelihood of an accidental discharge of a backup officer should he/she be present at the time of the X26 Taser's utilization and deployment.

K. The X26 Taser will never be used as a means of punishment. The X26 Taser is a weapon and shall be treated as such with the same respect given to firearms safety. Violations of this policy will be considered serious infractions and appropriate discipline shall follow if deemed necessary.

## **THE TASER WILL NOT BE USED IN THE FOLLOWING CIRCUMSTANCES:**

- A. When the officer knows a subject has come in contact with flammable liquids or is in a flammable atmosphere;
- B. When the subject is in a position where a fall may cause substantial injury or death;
- C. Punitively for purposes of coercion, or in an unjustified manner;
- D. When a prisoner is handcuffed;
- E. To escort or jab individuals;
- F. To awaken unconscious or intoxicated individuals;
- G. When the subject is visibly pregnant, unless deadly force is the only other option.
- H. A subject clearly has an unusually low body mass index.

Additionally, the Taser should not be used in the following circumstances (*unless there are compelling reasons to do so which can be clearly articulated*):

- 1. When the subject is operating a motor vehicle;
- 2. When the subject is holding a firearm;
- 3. When the subject is at the extremes of age or physically disabled;
- 4. In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officers and/or civilians as necessary.

## **DUTIES AFTER DEPLOYMENT**

- A. Immediate action should be taken to care for the injured, to apprehend any suspects, and to protect the scene.

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B. Once the subject is restrained or has complied the X26 Taser should be turned off and placed in the holster with the safety in the down position.

C. An X26 Taser will not be left unattended except in exigent circumstances as when an officer is forced to act alone in taking custody or an immediate threat.

D. Medical personnel will be summoned to the scene to assess the subject if the use of probes is deployed. If the exam or other circumstances dictate the subject needs further medical treatment, the subject will be transported to the nearest medical facility. Medical treatment will not be refused for anyone who requests it.

E. All probes that make contact with the subject and impale the skin on any part of the subject's body shall only be removed by medical personnel (paramedics summoned to scene or hospital personnel). (1.3.5)

F. Paramedics will be summoned as soon as practically possible after use of the X26 Taser and when the scene is determined safe for responding medical personnel.

G. If the probes are removed by the subject after impalement paramedics shall still be summoned to scene to evaluate the subject.

H. If the probes impale clothing *only* and do not make contact with the subject's skin notification of medical personnel is discretionary.

I. Photographs will be taken of probe impact sites upon the body and or clothing and any other related injuries upon completion of transport to the police station during the booking process only when the subject is not considered a continued threat to officers. Photographs shall be placed into evidence.

J. *All probes that have been removed from skin by medical personnel will be treated as a Bio-Hazard "sharps".* These will be collected and placed into evidence with any expended cartridges.

K. The Taser shall be given to the on-duty supervisor for data download prior to the end of shift if a reported use of force incident occurs with probe deployment.

L. All incidents shall be documented on the Taser Form. See section Reports and Investigation for further.

## USE OF IMPACT WEAPONS

1. Impact weapons are considered to be less lethal weapons.

An officer need not attempt empty-hand control or the use of O/C Spray before using an impact weapon. The officer need only justify that empty-hand control or the use of O/C Spray would not be sufficient or practical to safely and effectively place an individual under control.

2. Officers who employ an impact weapon should do so with the intent to temporarily disable an individual and not to cause permanent injury or dispense punishment.

Primary targets of a strike from an impact weapon should be an individual's major muscle groups, motor points, abdomen, limbs and/or joints.

The primary target for less lethal bean bag projectile strikes shall be below center mass of the target person.

An officer should avoid striking an individual with an impact weapon in the groin, any part of the body above the shoulders, or the back. Striking these areas is also permitted in situations where deadly force would be justified.

3. After striking an individual with an impact weapon, and control of the person has been obtained, the officer will afford the individual medical treatment should, in the officer's judgment, medical treatment be required or if requested by the person himself. Medical assistance shall be summoned for subjects struck with less lethal bean bags. (1.3.5)

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4. Impact weapons are permitted to be used for other lawful purposes during an officer's duties (e.g., gaining entry to vehicles, gaining entry to residences, destroying animals, etc.).

5. If there is an emergency, other objects or pieces of equipment may be used as an impact weapon "of necessity" (e.g. flashlights, tree branches, metal or plastic pipes, or tubes).

### **REPORTS AND INVESTIGATION: (ADM 05.03A) (1.3.6 & 1.3.7)**

1. A department memorandum will be submitted by any officer who discharges a firearm for other than training or recreational purposes. (1.3.6A) A case report, response to resistance form, and when applicable, the Taser form will be completed by the officer and submitted to the officer's supervisor when an officer:

takes any action that results in, or is alleged to have resulted in, injury or death of another person (1.3.6B);

applies force through the use of deadly or non-deadly weapons (1.3.6C); and

applies force through the use of soft or hard empty hand techniques. (1.3.6D)

2. The case report and response to resistance form will fully document the incident and be submitted to the supervisor for review and completion of the supervisor portion of the form, unless the supervisor is directly involved in the application of force in the incident. Supervisors whom are directly involved in the application of force shall submit the response to resistance form to the Deputy Chief of Operations for review. The response to resistance form shall be submitted to the Office of the Chief of Police within a reasonable amount of time. (1.3.7)

3. The case report and response to resistance form will be reviewed by the Chief of Police. (1.3.7)

5. Accidental discharges will be documented by the officer and investigated by the supervisor in charge at the time. The officer's report should fully explain the circumstances surrounding the discharge and the supervisor's report should include recommendations for disciplinary action or training.

6. When shots are fired the shift supervisor will immediately respond to the scene and, as soon as possible, notify the Criminal Investigations Unit supervisor and the Chief of Police.

7. In instances where use of force results in death or injury, the Du Page Major Crime Unit or the Illinois State Police shall conduct an independent investigation in compliance with Illinois State Statutes.

8. All findings, recommendations, and reports of the Criminal Investigations Unit Supervisor and/or Du Page Major Crimes Task Force or other outside agency will be forwarded to the Chief of Police.

9. The following checklist may be used as a guide to ensure complete details of the incident:

time and date of incident;

place of occurrence; address and location;

officer involved; name, rank and star number;

suspect involved; address, name, D.O.B., sex, race and telephone number;

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person arrested; address, name, D.O.B., sex, race and telephone number; place of arrest; complainant's name, address, D.O.B., sex, race and telephone number; type of offense and case number; investigating supervisor, rank, star number; original reason for contact with suspect by officer involved; injuries; be specific as to nature, extent, and how it was inflicted (e.g. three inch laceration, right side of head), where & who treated; witnesses to the fact; address, name, D.O.B., sex, race and telephone number; and statement of witnesses should be made a part of this report but need not be incorporated in its entirety.

10. Upon completion of a use of force investigation, the Chief of Police or his designee will submit a report as to:  
propriety of action taken;  
endorsement of action taken; and  
outline corrective measures taken or suggestions, if deemed necessary. (1.3.7)

12. This report shall be submitted and filed with the response to resistance log maintained by the Administrative Sergeant. Necessary supplemental reports may be forwarded within a reasonable length of time.

13. Any officer whose use of force results in a death or serious physical injury will be immediately detailed to a staff assignment pending an administrative review of the incident. The purpose of this assignment is to protect the interest of the community and the officer. (ADM 05.03B) (1.3.8)

14. An annual audit of all Use of Force reports filed will be conducted by the Chief of Police or his designee. This report will investigate any patterns or trends that could indicate training needs and/or procedure modifications necessary.

15. An analysis of use of force activities, policies, and practices shall be completed annually. (1.3.13)

16. The Chief of Police will determine if a Firearm Use Committee shall be convened.

17. Four sworn members of the Department will comprise the Firearms Use Committee. Two Sergeants, one Patrol Officer/Range Officer and one Patrol Officer. These members will be appointed by the Chief of Police to review and make recommendations concerning the use of firearms by Department personnel. Such members will be answerable only to the Chief of Police.

18. Whenever a member of the Department is involved in the Use of Force, of any kind, on or off duty, in another jurisdiction, he shall, as soon as possible, notify the shift supervisor and relay the details of the incident. The Shift supervisor shall notify the Chief of Police who may assign a supervisor to investigate the incident.

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**SUMMARY**

Nothing stated in the procedure grants immunity to the officer involved since each case must be met and dealt with according to individual circumstances. Department personnel are reminded that the safety of innocent persons and bystanders must be given primary consideration whenever the use of firearms is contemplated.

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# BENSENVILLE POLICE DEPARTMENT

## RESPONSE TO RESISTANCE FORM

Case Report #		BPD IA # (if applicable)	
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Date/Time Occurrence		Location of Occurrence	
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Officers Involved	
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Arrestee/ Witness Involved	
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Type of Force Used (Discharge Firearm/Physical Force/OC Spray/Baton/Taser, etc)	
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Synopsis (If taser utilized, must complete & attach "Supervisory Taser Use" report.)	
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List Potential Contributing Factors (Intoxication/ Mental Illness Etc)	
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Injury to Officer		Injury to Suspect	
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Prepared by Officer		Date	
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Supervisor or DC Evaluation*	
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Prepared by Supervisor or DC*		Date	
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**NOTE:** After this form has been submitted through the chain of command to the Chief of Police and reviewed by same, the Chief of Police will initiate a review of the Use of Force incident. The employee involved will be notified via memorandum from the Chief of Police as to the outcome of that review.

Chief of Police	Date Received		Date of Finding	
Chief of Police Evaluation				

Based on the review of the foregoing facts and circumstances by the Bensenville Police Department, the use of force by \_\_\_\_\_ was

Justified  Not Justified

Consistent with Policy  Not Consistent with Policy

Received by Administrative Sergeant		Date	
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\* If Supervisor involved in the Use of Force, DC to complete evaluation. Otherwise the supervisor for the shift shall complete the initial evaluation.

**BENSENVILLE PUBLIC SAFETY  
POLICE DEPARTMENT**

<b>Title:</b> <i>DISCIPLINARY PROCEDURES</i>	<b>Procedure:</b> 3.400	
<b>Date Issued:</b> 08-06-04	<b>Effective Date:</b> 09-01-04	<b>Rescinds:</b> All Previous
<b>Revised:</b> 11-11-13	<b>Revision Effective Date:</b> 11-25-13	
<b>Distribution:</b> All	<b>Authority:</b> Frank Kosman, Chief of Police	

**PURPOSE:**

To establish an effective disciplinary system for Department personnel.

To incorporate training and counseling as a function of discipline.

To inform all members of the Department of their obligations and responsibilities to enforce and obey the rules and regulations of the Police Department.

**POLICY:**

Discipline can be positive or negative; it may involve encouragement, inspiration, reward, training, counseling, or the imposition of negative sanctions. The Police Department will maintain a disciplinary system which includes procedures for training and counseling members when corrective measures become necessary, and for taking punitive actions when required.

**PROCEDURE:**

***MANUAL OF RULES AND REGULATIONS (ref PER 08.01)***

1. The code of conduct for Police Department employees is provided to all personnel in the form of Rules and Regulations. These rules specify both required and prohibited conduct by employees.
2. Individuals employed by this Department will be provided with a copy of these Rules and Regulations upon starting employment with the Department. It is imperative that each employee read, understand and become familiar with these rules.

**SUPERVISOR'S ROLE**

1. Supervisors of this Department are crucial to the disciplinary process. They have the best opportunity to observe the conduct and appearance of officers and detect those instances when disciplinary actions are warranted. First line supervisors also have the opportunity to understand the personality traits of their personnel and to determine the most effective methods of discipline. (PER 8.03)
2. First line supervisors are responsible, and have the authority, for a limited administration of the disciplinary process. This process includes training, counseling, oral warning, written reprimand, temporary relief from duty, referral and recommendation, through the chain of command, to the Chief of Police for punitive disciplinary action. (PER 08.03)
3. The role of a supervisor in the disciplinary process is:

To observe the conduct and appearance of officers, detect those instances when disciplinary actions are warranted, and issue oral warnings or written reprimands to the officer.

To investigate allegations of employee misconduct when within the scope of their authority and responsibility.

To counsel employees to improve job performance or correct minor infractions of Department Rules of Conduct and procedures. (PER 08.02B)(26.1.4B)

To identify training needs as a function of the disciplinary process. (PER 08.02A)(26.1.4A)

To recommend the most effective methods of discipline, taking into consideration the type of misconduct, personnel record, behavior history and personality trait, of the personnel under their supervision. Employee personnel records are maintained in the Office of the Chief of Police.

#### ***COMMENDATION, TRAINING AND COUNSELING***

Supervisors are responsible for submitting written recommendations to the Chief of Police when they wish to commend an employee.

The supervisor will describe the noteworthy activity on a memo.

The Chief of Police will review the commendation recommendation.

If he concurs, the Chief of Police will prepare the commendation within (5) working days of the initial request.

The commendation will be issued to the employee through the chain of command after signing by the Chief of Police.

The Chief will distribute copies of the commendation to the Fire & Police Commission, Village Manager, the Public Safety Director, employee's personnel file, and post one copy.

2. Supervisors are responsible for the ongoing training and counseling of their unit members. These functions of discipline are best used as soon as possible after the infraction. (PER 08.02A&B, PER 08.03)(26.1.4A&B)

3. The criteria used by a supervisor to determine when either training or counseling should be initiated depends upon the type or seriousness of the infraction, if there were any previous incidents of a similar nature, and the employee involved. Generally, training is provided to correct any shortcomings, deficiencies, or lack of sufficient knowledge in the employee's job performance. Counseling would normally be provided for minor infractions of Rules of Conduct, minor procedural mistakes, inappropriate judgment, or matters concerning an officer's attitude. The supervisor will document the effects of the counseling. (PER 08.02A&B, PER 08.03)(26.1.4A&B)(33.1.5)

4. Minor first time infractions that are immediately addressed by the supervisor, either by oral warning or written reprimand, will be documented on a memo.

5. Repeat or minor infractions that need to be addressed in more detail will be documented on a memo. The supervisor will fully explain the problem and indicate the action taken to correct the deficiency. (PER 08.03)

6. Supervisors will make every attempt to provide the proper training or counseling necessary to assist the members of their units to perform at a safe and acceptable level. (PER 08.02A&B, PER 08.03)(26.1.4A&B)

7. If the supervisor is unable to provide the training or counseling required to correct the problem the supervisor will request the Training Officer to register the officer in the appropriate school, when available. (PER 08.02A, PER 08.03)(26.1.4A)

8. Training should foster positive and constructive techniques for improving employee productivity, effectiveness, and attitude. The Department may mandate remedial training for employees found to be deficient in some necessary skills.

#### **ORAL WARNING/WRITTEN REPRIMAND**

1. A Warning/Reprimand system is established to provide each supervisor with a disciplinary process for documenting minor infractions at the Unit level. (PER 08.03)

2. Supervisors will document an oral warning or a written reprimand on the Warning/Reprimand memo when they observe minor infractions of the Rules of Conduct or procedures. Generally, these types of infractions would not require training to be corrected.

3. When a supervisor observes a minor infraction he should discuss the infraction with the individual as soon as possible. This discussion should be documented as either an oral warning or a written reprimand on the Warning or Reprimand memo and signed by both the supervisor and the employee. For the first offense the memo will be retained by the supervisor for a period of twelve (12) months. The memo will not be forwarded to the Office of the Chief of Police, but will be available for review if requested.

4. If a second offense for a similar infraction occurs within a twelve (12) month period the supervisor will forward all reports to the Chief of Police, through the chain of command, with a recommendation for discipline.

5. If an employee receives three (3) oral warnings or written reprimands for unrelated infractions within a twelve (12) month period the supervisor will forward all reports to the Chief of Police, through the chain of command, with a recommendation for discipline.

6. Supervisors may, if they feel it is necessary because of the infraction or the officer's attitude, on the first offense document the incident on a Warning/Reprimand memo and forward it to the Chief of Police, through the chain of command, with a recommendation for disciplinary action.

7. Supervisors have the authority to exercise limited disciplinary action. A supervisor may temporarily relieve an employee from his/her remaining tour of duty on the grounds that the employee is unfit for duty. Upon relieving an officer from duty, the supervisor will immediately notify the Chief of Police and inform the Chief of the situation. Both the supervisor and the employee relieved from duty will report to the Police Chief at 0900 hours on the next business working day unless otherwise directed.

#### **PUNITIVE AND DISCIPLINARY ACTIONS (PER 08.02C)(26.1.4C)**

1. The decision to impose disciplinary action against an officer will be based on the "Conclusion of Fact" for each allegation of misconduct, violation of the Rules of Conduct and/or Department procedures. The Conclusion of Fact can result in the following types of closures:

**SUSTAINED** - The allegation is supported by sufficient evidence.

**NOT SUSTAINED** - insufficient evidence to prove or disprove the allegations.

This directive is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety of care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Bensenville Police Department and then only in a non-judicial hearing.

*EXONERATED* - Incident did occur but the actions taken were lawful and proper.

*UNFOUNDED* - Allegation is not factual; did not happen.

2. Punitive discipline, generally, will be imposed in a progressive manner from minimum to maximum but also, when appropriate, may be imposed to the maximum limit at any time for any incident. The following criteria should be used to determine the appropriate level of disciplinary action (PER 08.02C)(26.1.4C):

the seriousness of the incident;

the circumstances surrounding the incident;

the employee's accumulative disciplinary record;

the employee's work performance;

the overall negative impact on the Department caused by the incident; and,

the probability that future similar problems will occur.

3. Upon sustaining charges against a member of the Department, the Chief of Police will determine an appropriate penalty. Penalties which may be imposed by the Chief are (PER 08.02C, PER 08.03)(26.1.4C):

*Oral Warning* - An oral warning that some action, lack of action, or level of performance is not acceptable and will result in further disciplinary action if repeated or continued. Oral warnings, documented in writing, will become a part of the employee's personnel file. An oral warning is an official reprimand.

*Written Reprimand* - A written reprimand stating that some action, lack of action, or performance is unacceptable and will result in further disciplinary action if such action is repeated or continued. Written reprimands will become a part of the employee's personnel file. A written reprimand is an official reprimand. Employees may petition the Chief of Police to remove, from their personnel file, an Official Reprimand after a twelve (12) month period. The removal of such reprimand is at the discretion of the Chief of Police.

*Reduction in Performance Rating* - An employee's disciplinary record is part of his/her performance rating. This rating may be affected as a result of disciplinary action against the employee during that performance evaluation.

*Withdrawal of Outside Employment* - Secondary work privileges may be revoked or suspended by the Chief of Police.

*Suspension* - A disciplinary action in which the employee must forfeit his/her salary for misconduct considered to be serious, or part of a continuing pattern of behavior involving repeated misconduct. The Chief of Police may impose a suspension up to a maximum of five (5) days. A sworn employee can appeal the Chief's suspension of five (5) days or less, but must do so in writing to the Fire and Police Commission within five (5) calendar days.

*Reduction of Leave* - The Chief of Police may offer an employee who is suspended for a period of five (5) days or less the choice of being suspended without pay, or being suspended and in lieu of forfeiting pay, forfeiting equivalent amounts of compensatory time due or vacation time already accrued.

4. If the Chief of Police determines that the appropriate penalty should be greater than a five (5) day suspension, or should be discharge from service, the Chief of Police will cause charges to be prepared to present to the Fire and Police Commission. The employee and Union will be notified of those charges and prior to the imposition of any discipline, the employee will be given the opportunity to appear before the Chief of Police and explain and defend against those charges. (PER 08.02C, PER 08.03)(26.1.4C)

5. The Fire and Police Commission has the authority to suspend any sworn employee for up to thirty (30) days or to discharge the sworn employee from the Department. (PER 08.02C, PER 08.03)(26.1.4C)

6. An appeal may be filed by the employee from a decision reached by the Fire and Police Commission, in accordance with the provisions of the Administrative Review Act as set out in State law. Neither the employee nor the Chief of Police may appeal the decision of an arbitrator, other than an appeal to enforce the provisions of the arbitrator's decision. (PER 08.02D)

7. If an investigation of employee misconduct results in dismissal, the following information will be provided to the employee:

a statement citing the reason for dismissal (PER 08.04A);

the effective date of the dismissal (PER 08.04B);

a statement of the status of benefits after dismissal; and,

a statement as to the content of the employee's employment record relating to the dismissal.

8. Only reports and documents that sustain a disciplinary action against an individual will become part of the employee's personnel file. These files will be maintained by the Office of the Chief of Police. (PER 08.05)

9. Any disciplinary action such as a suspension, oral warning or written reprimand will be entered in the concerned employee's personnel file. Unless otherwise approved by the Chief of Police, records of disciplinary action will be kept in the employee's personnel file indefinitely. (PER 08.05)

#### ***NON SWORN PERSONNEL (PER 08.02D)***

1. The punitive and disciplinary actions process for non sworn members of the Department is governed by the Village's Personnel Policy.

2. The grievance process for disciplinary actions taken against non sworn members of the Department is governed by the Village's Personnel Policy.

#### ***DISCRIMINATION AND HARASSMENT***

1. All employees of the Police Department are governed by the Village of Equal Opportunity, Discrimination and Harassment Policy as contained in the Village Personnel Policy.



## **SUPERVISORY TASER® CEW USE REPORT**

Date/Time: \_\_\_\_\_

CEW Deploying Officer's Name: \_\_\_\_\_

E-mail: \_\_\_\_\_ Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_ Phone: \_\_\_\_\_

On Scene Supervisor: \_\_\_\_\_ Officer(s) Involved: \_\_\_\_\_

## INCIDENT & SUBJECT INFORMATION

Incident Type (circle appropriate response(s) below):

Civil Disturbance      Suicidal      Suicide by Cop      Violent Suspect      Barricaded      Warrant      Other

Nature of the Call or Incident: \_\_\_\_\_ Charges: \_\_\_\_\_ Booked: Y / N

Type of Subject:  Human  Animal

Location of Incident: ( ) Indoor ( ) Outdoor ( ) Jail ( ) Hospital

Type of Force Used (Check all that apply):  Physical  Baton  Impact Munition  
 Chemical  Firearm  Control holds  
 Other

Describe other means attempted to control the subject: \_\_\_\_\_

Nature of the Injuries and Medical Treatment Required: \_\_\_\_\_

Admitted to Hospital for Injuries: Y / N      Admitted to Hospital for Psychiatric: Y / N

Medical Exam: Y / N      Subject Under the influence: Alcohol / Drugs (specify):

Treating Medical Facility for Subject: \_\_\_\_\_ Treating Doctor of Subject: \_\_\_\_\_

Was an officer/law enforcement employee injured? Y / N

Subject: Age: Sex: Height:

TASER GUN INFORMATION

## **TASER CEW INFORMATION**

TASER Model (check one):  TASER M26™  TASER X26™  TASER X26P™  
 TASER X2™  TASER X3®

TASER CEW Serial No.: \_\_\_\_\_

If a TASER M26 was used, what battery type: Alkaline NiMH Rechargeable

Cartridge Type(s) used: Standard 15-ft 21-ft 25-ft XP™ 35-ft XP  
Smart cartridge 25-ft 35ft



Was a TASER CAM™ used? Y / N

Was any other video captured? Y / N Type of camera \_\_\_\_\_

Photographs taken? Y / N

TASER CEW use (circle one): Success / Failure

Suspect wearing heaving or loose clothes: Y / N

Number of CEW cartridges fired: \_\_\_\_\_

Number of CEW cycles applied: \_\_\_\_\_

Usage (check one): ( ) Arc Display Only ( ) LASER Display Only ( ) TASER CEW Application

TASER: Is this a probe contact: Y / N

Is this a drive-stun contact: Y / N

Approximate target distance at the time of the probe launch: \_\_\_\_\_ feet

Distance between the two probes: \_\_\_\_\_ inches

Need for an additional shot? Y / N

Did probe contacts penetrate the subject's skin? Y / N

Probes removed on scene: Y / N

Need for additional CEW applications? Y / N Did the CEW respond satisfactorily? Y / N

If the TASER CEW deployment was unsuccessful was a drive-stun follow-up used? Y / N

Did TASER CEW application cause injury: Y / N If yes, was the subject treated for the injury: Y / N

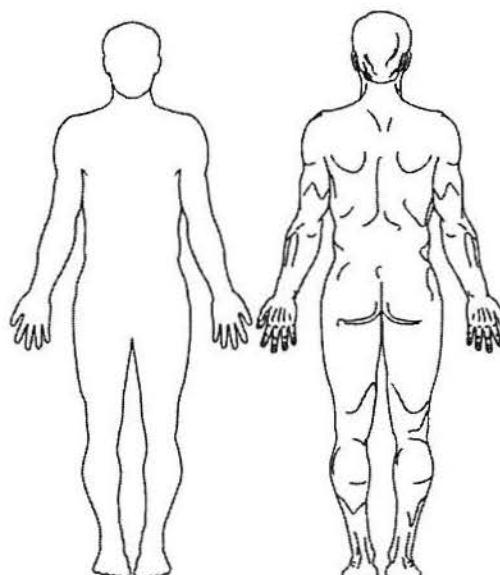
**DESCRIPTION OF INJURY:**

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**APPLICATION AREAS**  
(Place "X's" where probes hit subject AND "O's" where drive-stunned)





Describe the subject's demeanor after the CEW was used or displayed?

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#### SYNOPSIS OF CEW USE:

**ADDITIONAL INFORMATION:**

Report Completed by: \_\_\_\_\_

Date: