

ORDINANCE 2017-23

VILLAGE OF NEW RICHMOND, OHIO

Council for the Village of New Richmond, Ohio met in regular session this 23rd day of January 2018 with the following members present:

| | | |
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| Gary Skeene, | Paul Vanderbosch, | Mary Allen, |
| Rodney Henry, <u>Melanie Slade KP</u> | Amanda Davidson, | Richard Feldkamp |

Councilperson Feldkamp moved for adoption of the following:

AN ORDINANCE REVISING THE USE OF FORCE POLICY FOR THE NEW RICHMOND POLICE DEPARTMENT

Whereas: The Village of New Richmond Police Department (NRPD) maintains a Policies and Procedure Manual for the management of employees, and

Whereas: A revised Use of Force Policy has been presented and is shown as exhibit "A" formally attached hereto.

NOW THEREFORE BE IT ORDAINED, by the Council of the Village of New Richmond, State of Ohio a majority of its members concurring:

1. Revise Section 300 of the New Richmond Police Department Policy and Procedure Manual Use of Force Policy for the New Richmond Police Department per exhibit "A" formally attached hereto.
2. That Council finds and determines that all formal actions relative to the passage of this ordinance were taken in an open meeting and that all deliberations of Council which resulted in the passage of this Ordinance were taken in meetings open to the public, in full compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Councilperson Skeene seconded the motion to adopt the foregoing Ordinance and upon roll call the vote was as follows:

| | |
|------------------|------------|
| Paul Vanderbosch | <u>yes</u> |
| Gary Skeene | <u>yes</u> |
| Richard Feldkamp | <u>yes</u> |

Melanie Slade

~~Rodney Henry~~

yes

Amanda Davidson

absent

Mary Allen

yes

First Reading

12-12-17

Second Reading

1-9-18

Third Reading

1-23-18

Adopted:

1-23-18

Date

ATTEST:

Kelly Painter

CLERK OF COUNCIL, Kelly Painter

Ramona Carr

MAYOR, Ramona Carr

Approved as to form and content:

Scott Sollmann

SOLICITOR, Scott Sollmann

New Richmond Police Department

Policy and Procedure Manual

Section 300

Use of Force

300.1 PURPOSE AND SCOPE

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any force that carries a substantial risk that it will proximately result in the death of any person.

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

300.2 POLICY

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

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

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

300.2.1 DUTY TO INTERCEDE

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

300.3 USE OF FORCE

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

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

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

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

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any officer who has reasonable cause to believe that the person to be arrested has committed a crime or public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested, nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.

- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained, The availability of other options and their possible effectiveness.
- (h) Seriousness of the suspected offense or reason for contact with the individual.
- (i) Training and experience of the officer.
- (j) Potential for injury to officers, suspects and others.
- (k) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (l) The risk and reasonably foreseeable consequences of escape.
- (m) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (n) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (o) Prior contacts with the subject or awareness of any propensity for violence.
- (p) Any other exigent circumstances.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

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

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

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

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Officers should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Except in extreme circumstances, Officers should avoid shooting at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

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

300.5.1 NOTIFICATION TO SUPERVISORS

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

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

300.6 MEDICAL CONSIDERATION

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

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be

fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

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

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

300.7 SUPERVISOR RESPONSIBILITY

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

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/ her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate. This investigation will be initiated by the Chief of Police or his delegate.

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

The Shift Officer in Charge (full-time ranking officer on duty) shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

301.2 POLICY

The New Richmond Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force. They will be used to safeguard the arrestee from harming himself or others and during the lawful arrest or detention of a suspect.

301.3 USE OF RESTRAINTS

Only members who have successfully completed New Richmond Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.

- Whether the person has any other apparent disability.

301.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety.

No person who is in labor should be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary to prevent escape or injury.

301.4 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

301.5 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

301.6.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

301.7 REQUIRED DOCUMENTATION

If an individual is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:

- (a) The amount of time the suspect was restrained.
- (b) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.

Control Devices and Techniques

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the New Richmond Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

302.4 RESPONSIBILITIES

302.4.1 SHIFT OIC RESPONSIBILITIES

The Shift OIC may authorize the use of a control device by selected personnel who have successfully completed the required training.

Every control device will be periodically inspected by the designated instructor for a particular control device.

302.4.2 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Chief of Police for disposition. Damage to City property reports shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.6 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted

except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.6 TEAR GAS OR OC GUIDELINES

Tear gas and/or Oleoresin Capsicum (OC) may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Shift OIC may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed. Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment. The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When practicable, fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to control any fires and to assist in providing medical aid or gas evacuation if needed.

302.6.1 TREATMENT FOR TEAR GAS OR OC EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of tear gas or Oleoresin Capsicum (OC) should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel. The following information shall be included in the incident/use of force report.

- (a) Type of munitions employed.
- (b) Type and thickness of subject's clothing.
- (c) The subject's proximity to others.
- (d) The location of the subject.
- (e) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

302.7 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that cleanup will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

302.8 TRAINING FOR CONTROL DEVICES The Department's Control Device instructor (may be contracted from another local police agency) shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified regularly.

302.09 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Conducted Electrical Weapon

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of Conducted Electrical Weapon (CEW).

303.1 POLICY

The CEW is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

303.2 ISSUANCE AND CARRYING CEWS

Only members who have successfully completed department-approved training may be issued and carry the CEW.

Officers shall only use the CEW and cartridges that have been issued by the Department. Uniformed officers who have been issued the CEW shall wear the device in an approved holster on their person. Non-uniformed officers may secure the CEW in the driver's compartment of their vehicle.

Members carrying the CEW shall perform a spark test (consisting of a standard cycle of 5 seconds) on the unit prior to every shift.

When carried while in uniform, officers shall carry the CEW in a weak-side holster on the side opposite the duty weapon. Officers should have two cartridges attached to their CEW when carrying the CEW.

- (a) Officers shall be responsible for ensuring that their issued CEW is properly maintained and in good working order.
- (b) Officers should not hold both a firearm and the CEW at the same time.

303.3 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CEW should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the CEW may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CEW in the related report.

303.4 USE OF THE CEW

The CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when its operator can safely approach the subject within the operational range of the device. Although the CEW is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

303.5.1 APPLICATION OF THE CEW

The CEW may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CEW to apprehend an individual.

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CEW on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. These includes:

- (a) Individuals who are known to be pregnant.

- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the CEW in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The CEW shall not be used to psychologically torment, elicit statements or to punish any individual.

303.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CEW probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

303.5.4 MULTIPLE APPLICATIONS OF THE CEW

Officers should apply the CEW for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the CEW against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the CEW appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CEW, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one CEW at a time against a single subject.

303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all CEW discharges. Both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

303.5.6 DANGEROUS ANIMALS

The CEW may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

303.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEWs while off-duty.

Officers shall ensure that CEWs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

303.6 DOCUMENTATION

Involved Officers shall document all CEW discharges in the related arrest/crime report and the Use of Force report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges shall be reported to the officer's supervisor within 24 hours of the discharge.

303.6.1 REPORTS

Items that shall be included in the Use of Force for a CEW discharge report form are:

- (a) The type and brand of CEW and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Identification of all personnel firing CEWs.
- (d) Whether any display, laser or arc deterred a subject and gained compliance.
- (e) The number of CEW activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
 - (1) The range at which the CEW was used.
- (g) The type of mode used (probe or drive-stun):
- (h) Location of any probe impact.
- (i) Location of contact in drive-stun mode.
- (j) Description of where missed probes went.
- (k) Whether the subject sustained any injuries.
- (l) Whether medical care was provided to the subject.

(m) Any known or suspected drug use, intoxication or other medical problems.

(n) Identification of witnesses.

The Chief of Police or his delegate should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Firearms Training OIC should also conduct audits of data downloads and reconcile CEW report forms with recorded activations.

303.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CEW probes from a person's body. Used CEW probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CEW probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CEW probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible. The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CEW.

303.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CEW may be used. A supervisor, when available, should respond to all incidents where the CEW was activated.

A supervisor should review each incident where a person has been exposed to an activation of the CEW. The device's onboard memory should be downloaded through the data port by a supervisor or Firearms Training OIC/instructor and saved with the related Use of Force report. Photographs of probe sites should be taken and witnesses interviewed.

303.9 TRAINING

Personnel who are authorized to carry the CEW shall be permitted to do so only after successfully completing the initial department-approved training.

Proficiency training for personnel who have been issued CEWs should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Chief of Police. All training and proficiency for CEWs will be documented in the officer's training file.

The Firearms Training Unit Supervisor is responsible for ensuring that all members who carry CEWs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEWs during training could result in injury to personnel and should not be mandatory for certification.

The Firearms Training Instructor or Chief of Police should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the CEW and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the CEW.
- (h) A review of the Use of Force Policy.
- (i) Performing weak-hand draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.
- (j) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.
- (k) Handcuffing a subject during the application of the CEW and transitioning to other force options.
- (l) De-escalation techniques.
- (m) Restraint techniques that do not impair respiration following the application of the CEW.

Officer-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

304.2 POLICY

The policy of the New Richmond Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

304.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

304.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned (under mutual aid) to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer. Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer.

304.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the New Richmond Police Department would control the investigation if the suspect's crime occurred in the Village.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the Clermont County Sheriff's Department, unless the Chief of Police or his

Designee directs otherwise. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

304.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

304.5 INVESTIGATION PROCESS

The following procedures are guidelines for use in the investigation of an officer-involved shooting or death.

304.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved NRPD or other local police officer (mutual aid assistance) will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. There may be an incident where mutual aid is requested and the first uninvolved officer on the scene is a deputy or township officer. Secure the scene and identify and eliminate hazards for all those involved. Additional actions:

- (a) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (b) Request additional resources from the Department or other agencies.
- (c) Coordinate a perimeter or pursuit of suspects.
- (d) Check for injured persons and evacuate as needed.
- (e) Contact a NRPD supervisor immediately.
- (f) Brief the supervisor upon arrival.

304.5.2 DUTIES OF INITIAL ON-SCENE SUPERVISOR

Upon arrival at the scene, the first uninvolved NRPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
- (b) If necessary, the supervisor may administratively order any NRPD Police Patrol Officer to give a statement to identify the crime scene and suspects for the purpose of conducting an initial investigation of the incident. This statement may be required prior to the employee's consultation with an attorney or other person of the officer's choice, in the event that the attorney or other person of the officer's choice cannot respond within 2 hours of the event.

1. If necessary, the supervisor may administratively order any other NRPD officer, who is not a Police Patrol Officer, to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
- (c) Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 - (d) The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
 - (e) Provide all available information to the NRPD Chief and Dispatch. If feasible, sensitive information should be communicated over secure networks.
 - (f) Take command of and secure the incident scene with additional personnel until properly relieved by another supervisor or other assigned personnel or investigator.
 - (g) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers or NRPD members pending further direction from a supervisor.
 2. When an officer's weapon is taken or left at the scene for other than officer safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported to the station by another officer.
 3. Ability to contact an attorney.

304.5.3 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

Chief of Police

Detective Supervisor

Outside agency investigators (if appropriate)

Internal Affairs Unit of outside agency (if appropriate)

Psychological/peer support personnel

Coroner (if necessary)

Officer representative (if requested)

All outside inquiries about the incident shall be directed to the Chief of Police or his/her delegate.

304.5.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated.
 - 1. Involved NRPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-NRPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist may be provided by the Department to each involved NRPD officer. A licensed psychotherapist may also be provided to any other affected NRPD members, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy) by the Chief of Police.
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.
 - 1. Confidentiality of communication with a critical incident stress management team member during a debriefing session is governed by 2317.02 ORC.

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

Each involved NRPD officer may be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift OIC to make schedule adjustments to accommodate such leave.

304.6 CRIMINAL INVESTIGATION

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews.

The following shall be considered for the involved officer:

- (a) NRPD supervisors should not participate directly in any voluntary interview of NRPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

304.6.1 REPORTS BY INVOLVED NRPD OFFICERS

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

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

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

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

304.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.

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

304.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detective supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. This may include a mutual aid assistance from the Sheriff's department, BCI or the state police.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Detective supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Bureau Commander.

304.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved NRPD officers to determine conformity with department policy. This investigation will be conducted under the supervision of the Chief of Police.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.

1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
 3. Administrative interviews shall be recorded by the investigator. The officer may also record the interview.
 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 5. The investigative supervisor shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

304.8 CIVIL LIABILITY RESPONSE

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

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

304.9 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available, body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Anybody-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Solicitor's Office, as appropriate.

304.10 DEBRIEFING

Following an officer-involved shooting or death, the New Richmond Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

304.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Chief of Police or his/her delegate is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order (ORC § 2317.02).

Attendance at the debriefing shall include the Chief of Police or his delegate and only those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Unit personnel.

304.10.2 TACTICAL DEBRIEFING

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

304.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the Village Administrator and/or Chief of Police and representative responsible for each phase of the investigation. Releases will be available to the Shift OIC, and Public Information Officer in the event of inquiries from the media.

No involved NRPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or Village Administrator.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

Firearms

305.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

305.1.1 AUTHORIZATION TO CARRY FIREARMS

Only sworn personnel who have met all state standards and have been authorized by the Chief of Police shall have the peace officer privilege to carry a firearm both on- and off-duty.

305.2 POLICY

The New Richmond Police Department will authorize commissioned police officers to carry their firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will require officers to keep their firearms in good working order and that relevant training is provided as resources allow.

305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Firearms Instructor and/or Chief of Police. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief of Police. This exclusion does not apply to the carrying of a single folding pocketknife or sheath knife that is not otherwise prohibited by law.

305.3.1 DUTY FIREARMS

Only issued or approved sidearms, shotguns and rifles are authorized for on-duty use.

305.3.2 SHOTGUNS

When not deployed, the shotgun shall be properly secured consistent with department training in a locked weapons rack in the patrol vehicle with the bolt closed on an empty chamber, magazine loaded, and the safety in the off position (cruiser ready).

305.3.3 PATROL RIFLES

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack in the patrol vehicle with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, the trigger pulled to release the hammer and the selector lever in the fire position (selector lever cannot be in the safe position with the hammer released).

305.3.4 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief of Police or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and approved by the Firearms Training Unit OIC or designee.
- (b) The firearm shall be inspected by the Firearms Training Unit OIC or member prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.

305.3.5 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and approved by the department.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun shall be the responsibility of the member unless the handgun is provided by the Department. Ammunition must be approved by the department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

- (e) The handgun shall be inspected by the Firearms Training instructor/ OIC or designee prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

305.3.6 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Firearms Training Unit OIC or designee when needed, in accordance with established policy.

305.3.7 AUTHORIZED CARRY IN COURT FACILITIES

Carrying of a firearm by officers into courtrooms or court buildings is subject to local court security rules and shall only be permitted while the officer is acting within the scope of his/her duties (as determined by the Chief of Police) (ORC § 2923.123).

305.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

305.4.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Chief of Police

305.4.2 HOLSTERS

Only department-approved/issued duty holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

305.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Chief of Police. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it. A flashlight should be carried on the member's person, when carrying a firearm with a tactical light.

305.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Firearms Training Instructor. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

305.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Training OIC or Staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded outside of the vehicle.
- (e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. Firearms shall be secured before fingerprinting an arrestee.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Firearms Training OIC for inspection and repair (if department owned). Any firearm deemed in need of repair or service by the Firearms Training OIC will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be used by the member until the duty firearm is serviceable.

305.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the

weapon will be used. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Firearms may be safely stored in lockers at the end of the shift. Rifles shall be unloaded in a safe manner and then stored in the appropriate equipment storage room.

305.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in criminal and civil liability.

305.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment (ORC § 2923.15).

305.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete mandatory training with their duty firearms. In addition to mandatory training, all members will qualify at least annually with their duty, off-duty, and secondary firearms on a course approved by the Ohio Peace Officer Training Commission (POTC) (ORC § 109.801). Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

Instructors conducting firearms qualifications are required to have the approval of the POTC director as well as certification issued by the POTC (OAC § 109:2-13-04).

305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action. In addition, the member may not carry a firearm until qualification is achieved (ORC § 109.801).

305.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall notify the on-duty OIC (or Command Staff if the discharge is the OIC's), as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

305.7.1 DESTRUCTION OF ANIMALS

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, CEW, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

305.7.2 INJURED ANIMALS

A member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

305.7.3 WARNING AND OTHER SHOTS

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

305.08 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry his/her New Richmond Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active law enforcement from other states are subject to all requirements set forth in 18 USC § 926B.