

USE OF FORCE & ADMINISTRATIVE PROCEDURES

Section

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21.1 POLICY: The Miami Police Department (MPD) recognizes the value of human life and is committed to respecting the dignity of every individual. The primary duty of all officers of the department is to preserve human life. Officers shall only use reasonable force to accomplish lawful objectives (**CALEA 1.3.1**).

21.1.1 Use of Force Generally – “Minimum Necessary Force”: It is the policy of the MPD that officers shall use only the minimum amount of force that is necessary to effect an arrest, apprehension, or physically control a violent or resisting person.

21.1.2 Deadly Force: The most serious act in which a police officer can engage is the use of deadly force. The authority to carry and use firearms in the course of public service is an enormous responsibility. Respect for human life requires that, in all cases, deadly force be used as a last resort, and then only to protect an officer or another person from imminent danger of death or serious physical injury. Officers should use only the minimal amount of force necessary to protect human life. Where feasible, and consistent with personal safety, some warning, such as **“POLICE-DON’T MOVE,”** should be given. If appropriate, officers should employ non-lethal alternatives prior to utilizing deadly force. Deadly force is never justified in the defense of property. Above all, the safety of the public and officers must be the overriding concern whenever the use of deadly force is considered.

Therefore, it is the policy of the Miami Police Department that officers are prohibited from using deadly force against any person, including fleeing felons, except as necessary in self-defense or the defense of another person when those officers have reasonable belief that they or another person are in imminent danger of death or serious physical injury. When the decision is made to use deadly force, officers must cease its application when they no longer have a reasonable belief that they or another person are in imminent danger of death or serious physical injury. (**CALEA 1.3.2**)

21.1.3 Duty to Intervene: At the scene of a police incident, many officers of the department may be present and some officers may not be directly involved in taking police actions. However, this does not relieve any officer present of the obligation to ensure that the requirements of the law and the Department regulations are complied with. Officers are required to maintain control or intervene if the use of force against a subject clearly becomes excessive. Failure to do so may result in both criminal and civil liability. **EXCESSIVE FORCE WILL NOT BE TOLERATED.**

21.2 ORGANIZATION: The Use of Force policy and procedures are mandated for all sworn officers of the Miami Police Department.

21.3 RESPONSIBILITIES: It is the responsibility of all MPD sworn officers to adhere to this policy.

21.3.1 It is the responsibility of all MPD commanding officers to ensure that all sworn officers in their command are in compliance with this policy.

21.3.2 It is the responsibility of the police officer to notify the supervisor that force as outlined in this policy has been used. This should be done immediately and, if possible, while the officer is still at the scene of the incident.

21.4 DEFINITIONS:

DEADLY FORCE: Any use of force that creates a substantial risk of causing death or serious bodily injury.

LESS-LETHAL FORCE: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

OBJECTIVELY REASONABLE: The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

SERIOUS BODILY INJURY: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

CHOKER HOLD (Prohibited): A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. This does not include vascular neck restraints.

WARNING SHOT (Prohibited): Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

IMMINENT DANGER: Imminent danger/threat means immediate danger that must be instantly met in self-defense or in the defense of another person.

LAST RESORT: Last resort means that all practical methods available to the officer to avoid using deadly force have been exhausted. Depending on the tactical situation, these methods may include verbal commands (i.e., "STOP POLICE, OR I'LL SHOOT") foot pursuit, using a lesser level of necessary force, establishing a perimeter, etc., when these means can be accomplished without endangering the officer or the public.

21.5 PROCEDURES:

21.5.1 Using Force: Officers shall only use such force as is reasonably necessary and authorized to effect an arrest or defend themselves or others. The level of force used should be consistent with the subject’s level of resistance and in accordance with the Use of Force Matrix outlined in this Departmental Order.

21.5.1.1 DESCALATION: An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with training whenever possible and appropriate before resorting to force and to reduce the need for force. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a subject, or commission of the crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

21.5.1.2 Use of Force/Levels of Resistance Matrix (Resistance Levels):

RESISTANCE LEVELS	Resistance Level	1 Officer Presence		2 Communication			3 Physical Control					4 Intermediate Weapons	5 Incapacitating Control	6 Deadly Force
		Arrival / Interview Stance	Dialogue	Verbal Direction	Touch	Restraint Devices	Transporters	Take Downs	Pain Compliance	O.C. / ECD	Counter Moves	Intermediate Weapons	Incapacitation	Deadly Force
6	Aggravated Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5	Aggressive Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
4	Active Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
3	Passive Physical	✓	✓	✓	✓	✓	✓	✓						
2	Verbal	✓	✓	✓	✓	✓								
1	Presence	✓	✓	✓	✓	✓								

**RECOMMENDED RESPONSE LEVELS
RESISTANCE MATRIX**

21.5.1.3 Presence: A subject is present, on the scene, involved in suspicious activity.

21.5.1.4 Verbal Resistance: A subject may verbally refuse to comply with an officer’s request or attempts to control the situation. The subject may threaten the officer with further resistance or, the subject may not respond to the officer.

21.5.1.5 Passive Physical Resistance: A subject physically refuses to comply or respond. The subject does not make any attempt to physically defeat the actions of the officer but forces the officer to employ physical maneuvers to establish control.

21.5.1.6 Active Physical Resistance: A subject makes physically evasive movements to defeat an officer's attempt at control. This may be in the form of bracing or tensing, attempts to push/pull away or not allowing the officer to get close.

21.5.1.7 Aggressive Physical Resistance: A subject makes overt, hostile, attacking movements, which may cause injury, but are not likely to cause death or great bodily harm to the officer or others.

21.5.1.8 Aggravated Physical Resistance: A subject makes overt, hostile, attacking movements with or without a weapon with the apparent ability to cause death or great bodily harm to the officer or others.

21.5.1.9 Police Officer Response Levels:

21.5.1.10 Level 1 – Officer Presence – Arrival: The officer is present on the scene. This includes proper voice and/or other identification, body language and awareness by the subjects that they are dealing with a police officer.

21.5.1.10.1 Interview Stance: The officer adopts a stance outside of the danger zone that provides appropriate protection and forms the basis of an effective physical response if attacked. In such a stance:

- a) The firearm or strong side leg is back;
- b) the non-firearm or weak side leg is forward;
- c) the feet are about shoulder width apart;
- d) the knees are slightly bent giving balance, control, and a lower body center of gravity;
- e) the body weight is equally distributed;
- f) and the hands are up for guarding the upper body.

21.5.1.11 Level 2 – Communication – Dialogue: A two-way, controlled, non-emotional communication between the officer and subject, aimed at problem identification and/or resolution.

21.5.1.11.1 Verbal Direction: An officer tells or commands a subject to engage in, or refrain from a specific action or non-action.

21.5.1.11.2 Touch: An officer employs a soft assisting touch to comfort, console, or to obtain the attention of a subject or individual in a non-confronting situation.

21.5.1.12 Level 3 – Physical Control – Restraint Devices: The tools used to restrict a subject's movement and facilitate searching; such as, handcuffs, flex cuffs, or other authorized restraining devices, etc.

21.5.1.12.1 Less Lethal Force: Techniques used to control a subject when the subject threatens to assault an officer or individual(s) and:

1. Physically resists arrest;
2. verbal dialogue has failed to bring about compliance;

3. the subject has signaled his intention to actively resist the officer's effort to make a lawful arrest.

21.5.1.12.2 Transporters: Techniques used to control and/or move a subject from point A to point B with minimum effort by the officer in order to gain and retain control over the subject.

21.5.1.12.3 Take Downs: Techniques that redirect, in a controlled manner, a subject to the ground in order to limit their physical resistance and to facilitate the application of a restraint device.

21.5.1.12.4 Pain Compliance: Techniques that force a subject to comply with an officer as result of the officer inflicting controlled pain upon specific points in the subject's body, such as pressure point techniques.

21.5.1.13 Level 4 – Intermediate Weapon - Weapon that is primarily used to control a subject such as:

1. An expandable baton,
2. Baton PR-24,
3. Oleoresin Capsicum (OC spray),
4. Conducted Electrical Weapon (CEW),
5. Restraint Devices,
6. Body parts, i.e., hands, feet, etc

21.5.1.13.1 Intermediate weapons approved for use **only** by members of the Special Weapons and Tactics Detail (SWAT) include kinetic energy impact projectiles (i.e., bean bags, stingers, pepper balls, rubber batons, rubber pellets).

21.5.1.13.2 Counter Moves: Techniques that impede a subject's movement toward an officer or others such as, blocking, striking, distracting, kicking, parrying, dodging, weaving, redirecting, or avoiding, followed by appropriate controlling techniques.

21.5.1.14 Level 5 – Incapacitating Control –

21.5.1.14.1 Incapacitating: Techniques that are intended to stun or render a subject temporarily unconscious or unable to continue to resist. These techniques may be delivered with or without an impact weapon, such as a strike to a major nerve area. They may have moderate potential for physical harm.

21.5.1.15 Level 6 – Deadly Force: Techniques that may result in death, great bodily harm, or permanent disfigurement, such as impact weapon strikes to head or use of firearms.

21.5.1.15.1 Deadly Force techniques are a last resort.

21.5.1.16 The recommended Use of Force/Levels of Resistance Matrix is to be used as a guideline for officers to select effective, reasonable and legal force options in a verbal or physical encounter.

21.5.1.17 As a subject increases the resistance level from verbal to physical, an officer may have to increase the level of their response until the resistance ceases and the officer is able to gain control of the subject.

21.5.1.18 As soon as the point of subject compliance is reached, the officer must de-escalate their response level to the minimum force necessary to control the subject.

21.5.1.19 The Decision Making Process: In properly determining the appropriate response to a subject's resistance, the factors outlined below in the "Decision Making Process" should be evaluated by an officer:

21.5.1.19.1 Subject Resistance

Is the subject verbally or physically resisting my lawful authority?

Is the subject making attacking movements that are not likely to cause death or great bodily harm?

Is the subject making attacking movements that are likely to cause death or great bodily harm?

21.5.1.19.2 Situational Factors

What subject factors influence this situation? Weapon? Physical size? Demeanor? Others?

What officer factors influence this situation? Training? Experience? Physical size? Others?

What environmental factors influence this situation? Weather? Location? Presence of others?

21.5.1.19.3 Officer's Response

Can I physically control the subject?

Could I use non-lethal weapon not meant to cause death or great bodily harm?

Is deadly force the appropriate option to prevent death or great bodily harm to myself or others?

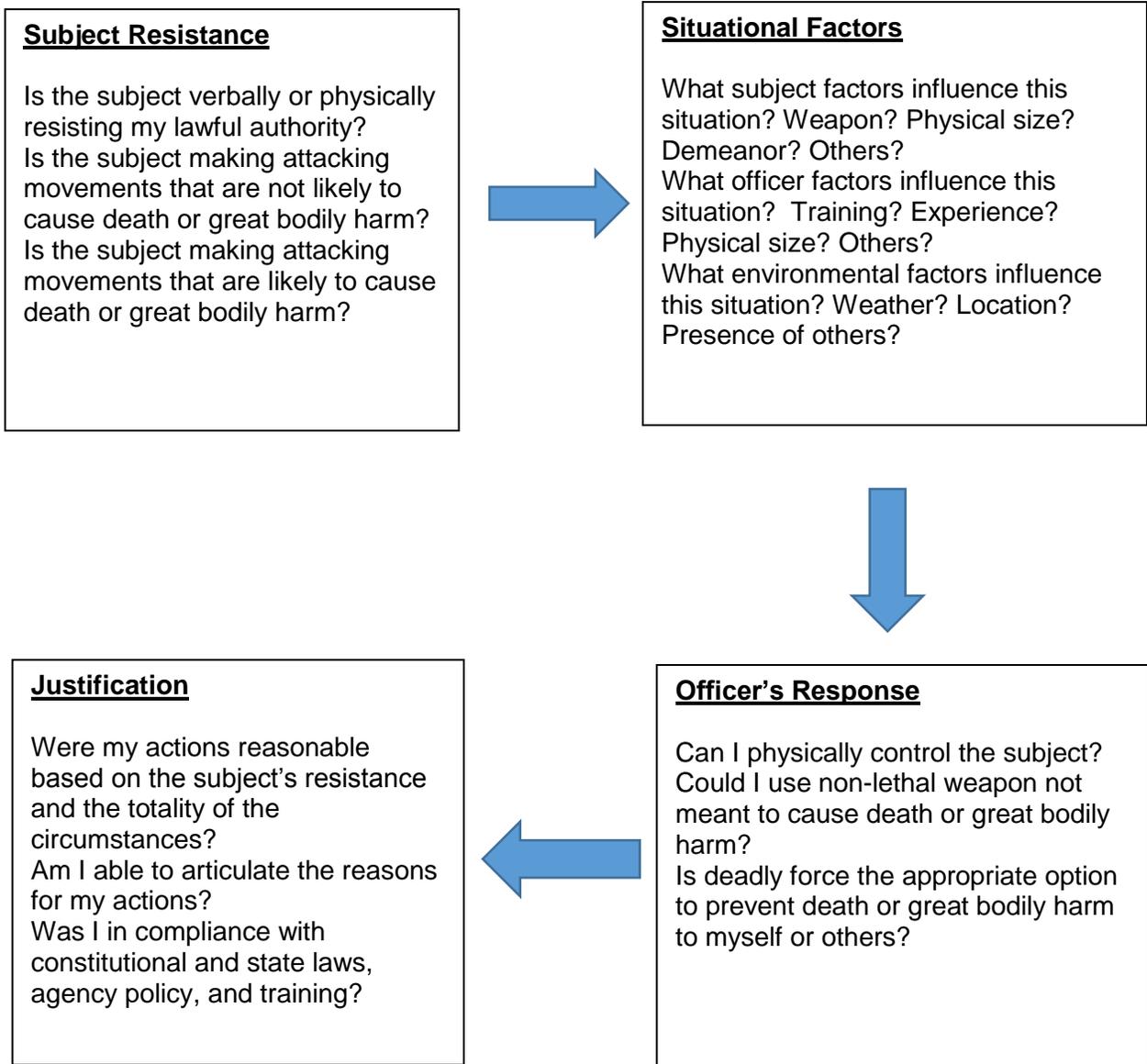
21.5.1.19.4 Justification

Were my actions reasonable based on the subject's resistance and the totality of the circumstances?

Am I able to articulate the reasons for my actions?

Was I in compliance with constitutional and state laws, agency policy, and training?

Decision Making Process Flow Chart:



21.5.1.20 Officers need not retreat in their efforts to lawfully control a subject, but may utilize the amount of force necessary to accomplish the task. This is not to say that a tactical retreat in the face of overwhelming odds may not be a wise choice.

21.5.1.21 Officers must be cognizant to follow the established procedures outlined in the Crisis Intervention Team (CIT) DO for handling subjects who suffer from mental illness or emotional disorders when determining the appropriate response to a subject's resistance.

21.5.1.22 Police officers are prohibited from utilizing the Lateral Vascular Neck Restraint (LVNR), chokehold, neck hold, and/or any other restraint that restricts free movement of the neck or head or restricts an individual's ability to breath.

21.5.1.23 Unholstering/Drawing Firearms: Certain situations require the use of extreme caution and MPD acknowledges that during those situations, for the safety and welfare of officers, there is a practical need for officers to un-holster or draw their firearms. In those (i.e.: building searches for burglary subjects, checking suspicious vehicles, etc.), an officer shall exercise all safety principles learned in their training, which consists of the following:

- 1) When a handgun is drawn from the holster, the trigger finger shall be kept outside the trigger guard and parallel to the cylinder or frame.
- 2) When a shotgun, carbine, or any other departmentally approved firearm is carried, the finger shall be kept outside the trigger guard and parallel to the receiver frame.
- 3) Unless imminent danger of death or great serious physical injury exists, officers shall maintain their trigger finger outside the trigger guard.
- 4) Before an officer places his finger on the trigger, he must have identified a target and be able to articulate the immediate need to use deadly force.
- 5) An officer shall not have an un-holstered weapon nor be in possession of a shotgun or carbine when searching, handcuffing, or handling a subject.
- 6) The hammer of a revolver or semi-automatic pistol will not be drawn back to the single action firing position except when cleaning or disassembling the weapon.
- 7) A handgun, rifle, or shotgun muzzle will not be held in direct contact with an individual except as a last resort when the use of deadly force is justified and it is the only manner in which the firearm can be discharged without increasing the danger of death or serious physical injury to the officer or another person.

21.5.1.24 Medical Attention: Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with their training to any individual who is unconscious or has visible injuries, complains of being injured or of pain, or requests medical attention. This may include providing first aid, requesting emergency medical services and/or arranging for transportation to an emergency medical facility (**CALEA 1.3.5**).

21.5.1.24.1 If a subject is injured or complains of pain or injury, a supervisor shall be requested and must respond to the scene. If there is an obvious injury, Emergency Medical Services (EMS) must be dispatched to the scene.

21.5.1.25 Administrative Assignment - Removal from Line Duty Assignment: When the actions and/or use of force by any sworn or civilian employee acting in their official capacity results in death or serious bodily injury, the employee shall be removed from their line-duty assignment and be administratively re-assigned pending an administrative review (**CALEA 1.3.8**).

21.5.1.26 Psychological Services Provider (PSP): IAS personnel will contact the on-call Psychological Services Provider (PSP) and schedule the employee(s) to attend post-traumatic stress counseling. The Psychological Services emergency telephone number may be obtained through Communications.

21.5.1.26.1 Employees shall be required to attend post-traumatic stress counseling and must be cleared by the PSP prior to returning to their line-duty assignment and/or assigned to work extra duty assignments.

21.5.2 PROCEDURES FOLLOWING THE USE OF FORCE:

21.5.2.1 Response to Resistance Reports (BTW RF #186) will be initialized/generated via the Blue team Website located on MPD Intranet site.

21.5.3 Situations Requiring a Response to Resistance Reports (RRR) Blue Team Website (BTW) (RF #186) A Response to Resistance Report (BTW RF #186) will be completed when force is used, whether or not an arrest is made, under the following circumstances (**CALEA 1.3.6 b,c,d**):

21.5.3.1 When striking, kicking, hitting a subject.

21.5.3.2 When an officer causes an injury or death by use of force other than with a firearm.

21.5.3.3 When there is a complaint of injury.

21.5.3.4 When there is a visible injury caused by the use of force.

21.5.3.5 When a K-9 bite occurs.

21.5.3.6 When an officer uses OC Spray.

21.5.3.7 When an officer uses the CEW.

21.5.3.8 When an officer uses the Expandable Baton to strike a subject.

21.5.3.9 When an officer uses the Baton PR-24 to strike a subject.

21.5.4 Situations Not Requiring a Response to Resistance Reports (BTW RF #186): A Response to Resistance Report (BTW RF #186) will not be completed under the following conditions:

21.5.4.1 When the force used was routine and normal in controlling, searching, and/or handcuffing a subject and the criteria requiring a Response to Resistance Report (BTW RF #186) has not been met.

21.5.4.2 When the subject was injured prior to the arrest; e.g., fleeing, jumping a fence, etc; a Sick/Injured Person (Signal 41) report will be completed in these instances.

21.5.4.3 When the subject is accidentally injured after the arrest; e.g., injured in transport, a Sick/Injured Person (Signal 41) report will be completed in these instances.

21.5.4.4 When subjects accidentally or purposely injure themselves; e.g., strikes their head against the wall, etc.; a Sick/Injured Person (Signal 41) report will be completed in these instances.

21.5.5 Key Elements To Be Included In The Response to Resistance Report (BTW RF #186): One (1) individual report will be generated by the reporting supervisor for each subject for whom a physical response was necessary.

21.5.5.1 Each involved officer(s) and officer witness(es), shall submit a written statement via the RRR (BTW RF #186) and forwarded to the supervisor-investigator.

21.5.5.1.1 The statements of the involved officer(s) and officer witness(es) will be submitted to the supervisor-investigator via their MPD e-mail account;

21.5.5.1.2 This narrative will be sent to the reporting supervisor via the involved officer/supervisor('s) City of Miami e-mail account.

21.5.5.2 Incident Details: The Response to Resistance Report will include all of the required information and incident details.

21.5.5.3 Photographs: Photographs of every subject must be taken showing area of injury or possible injury. Photographs of officers are mandatory when an officer is injured and the injury is visible, but are discretionary if there is no visible injury to the officer.

21.5.5.3.1 The Crime Scenes Investigations Unit (CSI) will be responsible for documenting the injuries through the use of color photographs. CSI will maintain the photographic evidence until such time as retention is no longer required by law, but not less than six (6) years. The reporting supervisor will note the number of photos taken and the photographer's PIN (Example: 3/6280).

21.5.5.4 Involved Officer's Narrative: Include an accurate description of conditions leading up to force and force used. Only the resistance and the use of force should be described. Specific injuries should be described in detail, as well as what caused them. (Example: "After the subject swung at me, I struck him on the right upper thigh with my Expandable Baton.") Use such descriptive words as "punched", "scratched", "bit", "kicked", "threw to the ground", etc., if they apply. Any officer who conducts an act as described in Department Order 6, Chapter 21.5.3, is considered an "involved" officer. The actions of additional involved officers will also be included in the narrative. If the involved officer is of the rank of Sergeant of Police or above, then the report will be completed by an uninvolved supervisor.

21.5.5.5 Reporting Supervisor's Narrative: A supervisor will respond to the scene and interview the subject and available witnesses. The on duty field duty lieutenant shall be requested and must also respond to the scene. The supervisor shall investigate and make the narrative as complete and accurate as possible. The supervisor will include in the narrative a description of the injury; the details of the complaint of injury and to which specific part of the body; whether the subject was given or refused medical treatment; if treatment is refused, the responsibility to send the subject to the jail clinic or to the Hospital will continue to exist if injury is apparent or claimed; and, if known, cite the subject's past or current peculiar behavior, etc. The supervisor's narrative should primarily deal with the justification and should not repeat the officer's narrative.

21.5.5.6 Responding Commanding Officer Narrative: The responding on duty lieutenant or commanding officer will include a notation on the RRR (BTW RF #186) stating they were on the scene, reviewed the report, and concurs or does not concur with the initial facts.

21.5.5.7 Distribution and Content of Response to Resistance Report Package: A Response to Resistance Report package shall consist of the, RRR (BTW RF #186), all reports generated relating to the incident, the CSI Unit photographs of the subject, and the officer (if required), and JMH Medical Reports, if available. The reporting supervisor and any supervisor reviewing the RRR (BTW RF #186) package will be responsible for ensuring that all associated documentation is attached to the RRR (BTW RF #186) and that the information included in the report is accurate and correct.

21.5.5.7.1 The Response to Resistance Report Package and copies will be forwarded through the chain of command electronically for review (**CALEA 1.3.7**). The distribution will be as follows:

21.5.5.7.2 The original Response to Resistance Report Package will be forwarded electronically through the chain of command to the Chief of Police, or designee.

21.5.5.7.3 A copy containing the attached copies will be submitted electronically to the Internal Affairs Section before the end of the involved officers' tour of duty. It will be the commanding officer's responsibility to review the report and ensure that a copy of the report is forwarded to the Internal Affairs Section. Failure to submit the copy at the end of tour of duty will result in disciplinary action.

21.5.5.7.4 A copy containing the attached copies will be submitted electronically to the Training and Personnel Development Section (TPDS).

21.5.5.7.5 A copy containing the attached copies will be submitted electronically to the Professional Compliance Section (PCS) High Liability Board (HLB) Coordinator.

21.5.5.7.6 The Communications Section shall also be notified by the investigating supervisor in order for the Response to Resistance Log to be completed with the required information (e.g., incident number, date, time, officer involved, subject, sergeant, field duty lieutenant). The Communications Log Number must be included in the Response to Resistance Report.

21.5.6 PROCEDURES FOR THE USE OF DEADLY FORCE: In determining whether an "Objectively Reasonable" belief exists, the standard is whether a reasonable police officer in the same circumstances and experiencing the same informational input would feel the same level of danger and the same need to use force.

Prohibited Use of Firearms

1. Sworn officers are prohibited from using deadly force against another person unless they have an objectively reasonable belief that they must protect themselves or another person present from imminent danger of death or serious physical injury (**CALEA 1.3.2**).
2. Police officers are prohibited from discharging their firearms when doing so will unnecessarily endanger innocent persons.

3. Police officers are prohibited from discharging their firearms in the defense of property.
4. Police officers are prohibited from discharging their firearms to subdue a fleeing felon who presents no imminent danger of death or serious physical injury to them or to another person present.
5. Police officers are prohibited from firing warning shots **(CALEA 1.3.3)**.
6. Police officers are prohibited from discharging their firearms to summon assistance except in emergency situations when someone's personal safety is endangered and no other reasonable means is available.
7. Police officers are prohibited from discharging their firearms at or from a moving vehicle unless deadly force is being used against the police officer or another person present, by means other than the moving vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. The only exception is an act of terrorism where the vehicle is being used as a weapon.
8. Police officers are prohibited from discharging their firearms at a dog or another animal except to protect themselves or another person from imminent danger of death or serious physical injury and there is no other reasonable means to eliminate the threat.
9. Police officers are prohibited from discharging their firearms when the circumstances are clearly obvious to the officer that they have lost visual sight of the subject or has no identifiable imminent threat.
10. Police officers shall not unreasonably place themselves in a position where a threat of imminent danger of death or serious physical injury is created when attempting to approach, pursue, and/or stop a motor vehicle or armed subject. Police Officers will follow all training protocols regarding "felony stops" involving armed subjects or vehicles.
11. Police officers are reminded of the potential danger while encountering emotionally disturbed individuals. For the protection of police and such persons, officers will be guided by the Crisis Intervention Team (CIT) DO.

21.5.7 Discharging Weapons: These procedures shall be followed after a weapon is fired by an officer, whether on or off duty, excluding firing practice at an approved range, legal hunting, etc.

The officer firing the weapon shall notify the Communications Section via police radio and their respective supervisor immediately. In the event they cannot communicate via the police radio, notifications will be made via telephone. The supervisor shall ensure the immediate notification of their respective Commanding Officer, the Staff Duty Officer, Homicide Unit and the Internal Affairs Section. If the Commanding Officer is not available, the supervisor shall notify any on-duty Commanding Officer of the Patrol District. The Shooting Response Team will be notified on

all discharges of firearms except on those involving animals or accidental discharges without injuries.

The scene of any discharge of firearms incident will be maintained until the on-scene investigation has been completed by the Commanding Officer, the Internal Affairs Section Investigator, and if appropriate, the Shooting Response Team.

The officer(s) involved in a discharge of firearms may be asked to do a walk through by the Internal Affairs Section with the investigators at the scene and point out any evidence or potential evidence.

21.5.7.1 Officers involved in any Category 1, 2, 3, 4 or 5 Discharge shall be removed from line duty assignment and reassigned to administrative duties for a minimum of three (3) days by the Commander of the Internal Affairs Section (or designee) pending an administrative review. The officer shall not be returned to active duty status until:

1. The officer attends Post Shooting Counseling provided by the Psychological Services Provider,
2. The officer completes any and all refresher training mandated by the Chief of Police,
3. A post-shooting briefing of the discharge of firearm occurs with the lead investigating agency (i.e. FDLE),
4. The Chief of Police will expressly approve the officer's return to work after a review of the available evidence that supports the return to active duty. The return to active duty will be documented in a memorandum.

21.5.8 Categories/Types/and Responses/Reports:

Discharge of Firearms Supplemental Report, R.F. # 184

21.5.8.1 The commanding officer of Internal Affairs shall submit a written report (Discharge of Firearms Supplemental Report, RF #184) through channels to the Internal Affairs Section within 48 hours on all categories of discharge of firearms. Report requirements are as follows (**CALEA 1.3.6 a**):

21.5.8.1.1 All pertinent details and facts of the shooting incident.

21.5.8.1.2 A conclusion will not be rendered in the Discharge of Firearms Supplemental Report (RF #184) by the investigating Commanding Officer. The Firearms/In Custody Death Review Board and/or other appropriate agencies will make a recommendation to the Chief of Police as to whether the discharge is in compliance with Florida Statutes, Departmental Rules and Regulations, and Departmental Orders.

21.5.8.2 In the event there are multiple discharges of firearm incidents by multiple personnel, e.g., emergency situation, civil disturbances, etc., the Chief of Police may modify this procedure, if it is determined that the interest and safety of the public shall be best served.

Internal Affairs Summary of Findings Report:

21.5.8.3 Internal Affairs Summary of Findings Report - The Internal Affairs investigator will submit a separate fact finding report (Report of Investigations (memorandum)) which will be routed to The Firearms/In Custody Death Review Board. The Internal Affairs report will not render a conclusion.

Shooting Response / Lead Investigator: Categories 1-5

21.5.9 Category 1 (No Injury, Accidental, or Dangerous Animal): A discharge of firearm shall be investigated by the Internal Affairs Section. The commander of IAS or designee will assign a lead investigator from their section.

The Internal Affairs Section will be responsible for investigating any departmental or procedural violations associated with the officer involved in the incident.

21.5.9.1 Category 2 (No Injury, Duty Related): A Category 2 discharge of firearm shall be investigated by the Homicide Unit. The Homicide Commander or designee will assign a lead investigator from their unit. The Homicide Unit will be responsible for investigating any criminal violations by any individual(s) against an officer. The Homicide Unit will only investigate the criminal aspect of the incident and any crime(s) and/or criminal activity directly or indirectly related to the incident.

The commander of IAS or designee will assign a lead investigator from their section. The Internal Affairs Section will be responsible for investigating any departmental or procedural violations associated with the incident. Additionally, it is the responsibility of the Internal Affairs Section to oversee the entire investigation as an independent body to ensure the integrity of the investigation and verify that all aspects of the process have been properly and fairly followed.

21.5.9.2 Category 3 (Injury, Accidental);

21.5.9.3 Category 4 (Injury Duty Related);

21.5.9.4 Category 5 (Death, Accidental or Duty Related):

On a Category 3, 4 or 5 discharge of firearm the Florida Department of Law Enforcement (FDLE) will assume operational direction of investigations and forensic assistance or coordination as per the Memorandum of Understanding (MOU) agreement between the City of Miami and the FDLE.

21.5.9.5 The Homicide Unit will conduct the investigation related to any underlying criminal activity that preceded or occurred at the same time as the predicate act.

21.5.9.6 The Shooting Response Team: The Shooting Response Team will respond to all Category 2, 3, 4, and 5 discharge of firearms.

21.5.9.7 Notifications: On a Category 2, 3, 4 or 5 discharge of firearm, the following notifications will be made by Communications:

Discharge Officer's Commanding Officer
Internal Affairs Section
Homicide Unit
Crime Scene Investigation
Risk Management
Police Legal Advisor
Staff Duty Officer

FDLE will be notified on Category 3, 4 or 5 discharge of firearm.

21.5.9.8 Composition of Shooting Response Team: The Shooting Response Team will be comprised of a supervisor from the Internal Affairs Section, a supervisor from the Homicide Unit, a supervisor from the Crime Scene Investigations Unit and any additional support personnel identified by the respective Division/Section.

21.5.9.9 Crime Scene Investigations Unit Supervisor: Once notified, the Crime Scene Investigations Unit supervisor will be responsible for coordinating manpower and equipment needs for the work to be performed by crime scene investigators at the scene. As a member of the Shooting Response Team, it is the responsibility of the supervisor of the Crime Scene Investigations Unit to ensure that the crime scene(s) is/are properly prioritized and handled correctly during the course of the investigation.

21.5.9.10 Investigative Support: The following units, details or agencies will be notified on all Category 2, 3, 4 and 5 shootings.

State Attorney's Office Representative
Medical Examiner's Office Representative

21.5.10 Discharge of Firearm Outside of MPD Jurisdiction: On all discharges (Categories 1 through 5), IAS will respond and coordinate their efforts with the involved jurisdiction, as needed.

21.5.11 Discharge of Firearm Involving Multiple Law Enforcement Representative(s): In the event that officers from any other law enforcement agency (local, state, or federal) are involved in a Category 5 Discharge of Firearms incident, a command or management level official of that agency should be on the Shooting Response Team.

21.5.12 Discharge of Firearm by Outside Agencies in City of Miami Jurisdiction: In incidents not involving Miami Police employees, the Shooting Response Team will not respond and the Homicide Unit will have the sole and primary responsibility for investigating the incident.

Discharge of Firearms Statement Procedures:

21.5.13 Voluntary Statement: All officers involved in a discharge of firearm shall be provided the opportunity to provide a voluntary statement to the lead investigator within **72 hours**, absent exigent circumstances, and will document same. Any and all officers involved in a police shooting when giving a voluntary statement must be informed that the statement is not compelled, but is voluntary. The fact that the officer is not compelled to give a statement and that the Garrity rule is not in effect will be clearly entered into the record

21.5.13.1 Compelled (Garrity) Statement: Where there is a potential criminal investigation or prosecution of the officer, MPD will continue its efforts to complete the administrative investigation except that it is not required to conduct an interview of the involved officer(s) until completion of the criminal investigation unless, after consultation with the Office of the State Attorney and FDLE, such interviews are deemed appropriate because they will not interfere with any pending criminal investigation. MPD will continue to make documented efforts to work with the Office of the State Attorney to facilitate prompt determinations.

21.5.13.2 Miranda Warnings: If a discharge of firearm may result in a criminal case, Miranda Warnings shall be given in accordance with current case law. The fact that the officer is not compelled to give a statement and that the Garrity rule is not in effect will be clearly entered into the record.

21.5.13.3 Persons Present During Sworn Statements: The number of persons present at a sworn statement needs to be limited because the presence of an excessive number of people could have an adverse affect upon the witness' statement. The following are some of the people who may or may not be present during the taking of a statement, depending on the circumstances and at the discretion of the appropriate Shooting Response Team lead investigator. In an effort to limit distractions such as those that may be presented by having numerous individuals physically present in the interview room, the Homicide Unit lead investigator (commanding officer) may provide audio/visual access through the Closed Circuit Television system (CCTV):

1. Interviewee
2. Court Reporter
3. Lead investigator(s)
4. Assistant State Attorney
5. Attorney or representative of the involved officer
6. Police Legal Advisor

21.5.13.4 Employee Representative/Attorney: Preserving the integrity of the investigation is of paramount importance. Therefore, employee representatives/attorneys representing the officers should not be permitted to converse with more than one officer.

21.5.13.5 Confer with Assistant State Attorney: The Shooting Response Team will confer with the on-scene Assistant State Attorney regularly regarding Miranda, Garrity, voluntary statement issues and other aspects of the investigation. The Shooting Response Team will also comply fully with the current written "Police Shooting Policy" issued by the State Attorney's Office, the MOU with FDLE and adopted by the Miami Police Department.

TAKING OF FIREARMS:

21.5.14 Taking of Firearms from Officer - With Injuries: In cases where anyone has been injured as a result of a discharge, the supervisor of the Crime Scene Investigations Unit (a Shooting Response Team member) or designee will take the firearm that has been discharged and submit it for ballistic tests. An Internal Affairs investigator will be present whenever a firearm is taken from an officer in order to account for unused rounds. A replacement weapon will immediately, or as soon as practical, be issued to the officer, unless otherwise determined by the Commander of the Internal Affairs Section.

21.5.14.1 Taking of Firearms from Officer - No Injuries: In cases where no one has been injured by gunfire, an Internal Affairs investigator may take the firearm that has been discharged for testing. A replacement weapon will immediately (or as soon as practical) be issued to the Officer, unless otherwise determined by the Commander of the Internal Affairs Section.

PRELIMINARY FINDINGS REPORT:

21.5.15 Report of Investigation: In Category 1 shootings, the Internal Affairs Section will deliver a preliminary findings verbal report within seventy-two (72) hours after beginning its investigation. Additionally, in Category 2, 3, 4 and 5 shootings, the Homicide Unit's commanding officer shall also deliver an independent verbal preliminary findings report within seventy-two (72) hours after beginning its investigation.

NEWS MEDIA AT POLICE INVOLVED SHOOTING:

The Public Information Office will be notified of all Police Involved Shootings

21.5.16 News Media Coordination: The Public Information Office representative will be responsible for responding to the scene of the incident, gathering information, and establishing a media contact point.

The Public Information Office representative will coordinate with the COP (or designee) to develop all media releases. The Public Information Office will issue news releases and coordinate news media interviews on the scene and/or later.

In the event that media concerns necessitate interviews or statements by persons involved in the investigation, the COP (or designee) will designate the appropriate person to handle the interview or statement.

21.5.17 Inter Responsibilities and Coordination:

21.5.17.1 It is the duty of the Internal Affairs Section and the Homicide Unit to respond to Category 2, 3, 4, and 5 police involved firearm discharges.

21.5.17.2 The incident commander will ensure that the scene is secured, that physical evidence and documentation is protected and preserved and that all law enforcement and individual witnesses are identified and separated pending initial interview.

21.5.17.3 The Homicide Unit will conduct the investigation related to any underlying criminal activity that preceded or occurred at the same time as the predicate act.

INCIDENT COMMANDER BRIEFING:

21.5.18 Notwithstanding an investigative urgency and as soon as practical, upon arrival to a scene the commanding officers of the Internal Affairs Section and the Homicide Unit, **together**, will be briefed by the incident commander. The FDLE Critical Incident Team will be briefed on all categories 3, 4 and 5.

The briefing will include, but will not be limited to, details related to the incident, crime scene perimeter, number of offenders at large, victim/witness information and the identification of the

officers involved in the discharge of the firearm. At the conclusion of the formal briefing the commanding officer will officially transfer the command of the inner perimeter and notify the Communications Section of the change of command.

The Internal Affairs Section investigative team will have complete access to all areas of the shooting investigation and may directly observe and document all of its aspects to include but, not limited to, scene processing, witness interviews, suspect interrogation/interviews, reenactments, and area canvasses, etc.,

PUBLIC SAFETY QUESTIONS:

21.5.19 The first supervisor or deputy N.E.T. commander on-scene will be responsible for obtaining pertinent public safety related information from the shooting officer, such as BOLO information, last direction of travel, direction of firearm discharge, and the general area of the crime scene location(s). The intent of this procedure is to ensure public safety.

21.5.19.1 For public safety purposes it is the responsibility of the involved officer (including witness officer(s) to provide pertinent information to assist in the identification and apprehension of the offender(s) to include: BOLO information, last direction of travel, the general crime scene location(s) and for public safety, direction of firearm discharge.

INCIDENT COMMAND/INCIDENT MANAGEMENT:

21.5.20 In Category 1-5 discharge of firearm incidents, the deputy N.E.T. commander or district supervisor will be responsible for managing and controlling the scene(s) until the arrival of the Internal Affairs Section investigators and/or the Homicide Unit investigators. The deputy N.E.T. commander or district supervisor will be responsible for implementing the Incident Command System.

21.5.20.1 The first supervisor or deputy N.E.T. commander on-scene will be responsible establishing an Incident Command Post, identifying an ingress and egress from the location, and communicating that information to the Communications Section.

21.5.20.2 The first supervisor or deputy N.E.T. commander on-scene will be responsible for contacting the Communications Section as soon as possible to ensure that the proper notifications have been made consistent with their Standard Operating Procedures.

21.5.20.3 The first supervisor or deputy N.E.T. commander on-scene will be responsible for the integrity of the scene and for establishing an inner and outer perimeter. The outer perimeter will include an area for the responding investigative teams, command staff members, and supervisors.

21.5.20.4 Entry into the inner perimeter will be strictly limited to members of the investigative team. Any request for a walkthrough must be approved by the lead investigator. Requests for walkthroughs shall only be made by, and authorized for, staff members within the principal officer's chain of command. The staff member(s) must have a compelling and overriding reason to request a walkthrough.

21.5.20.5 The first supervisor or deputy N.E.T. commander on-scene will be responsible for ensuring that Crime Scene Investigators have been notified to respond to the scene.

21.5.20.6 The first supervisor or deputy N.E.T. commander on-scene will be responsible for identifying a scribe to record all personnel who are on-scene or entering the scene.

21.5.20.7 The first supervisor or deputy N.E.T. commander on-scene will be responsible for identifying and separating the involved officer(s) and all witnesses (police and civilian) to ensure the integrity of their subsequent statements. Contact with the officer(s) should be kept to an absolute minimum excluding communication necessary for public safety purposes.

21.5.20.8 An investigative walkthrough of any kind will only be coordinated by the lead investigator (or designee).

21.5.20.9 Any inspection and/or round count of the officer's firearm(s) will only be coordinated by the lead investigator (or designee).

21.5.21 In Police Custody Death: A "in police custody death" will be handled in the same manner as a Category 5 Discharge of Firearm.

21.5.21.1 Any officer involved in a "in police custody death" incident shall be reassigned to administrative responsibilities for a minimum of three (3) days or until such time that it has been determined that the officer is cleared to return to regular duty. Only the Chief of Police may authorize the officer's return to regular duty.

21.5.21.2 The completed "in police custody death" investigations will be routed to the Firearms/In Custody Death Review Board.

21.5.22 The Firearms / In Custody Death Review Board:

21.5.22.1 As soon as practical, after the completion of the investigation the Assistant Chief of the Administration Division will convene the Firearms/In Custody Death Review Board.

21.5.22.2 The board will be comprised of the following personnel:

21.5.22.3 The Assistant Chief of the Administration Division, Chairperson.

21.5.22.4 The Assistant Chief of the Field Operations Division.

21.5.22.5 The Assistant Chief of the Criminal Investigations Division.

21.5.22.6 The Police Legal Advisor (Assistant City Attorney) to the Chief of Police.

21.5.22.7 The commanding officer of the Training and Personnel Development Section who serves in an advisory capacity.

21.5.22.8 If a Division Assistant Chief is unable to attend, they may appoint a major from their division to represent them on the Firearms/In Custody Death Review Board

21.5.23 Recommendations By the Firearms/In Custody Death Review Board:

The Board will;

21.5.23.1 Evaluate the actions of the officer(s) leading up to the discharge of firearm(s) or in-custody death.

21.5.23.2 Determine if MPD policies and procedures provided adequate direction given the circumstances of the discharge or in-custody death.

21.5.23.3 Determine if training, tactics and/or the officer's equipment were a factor in the discharge of firearm or in-custody death.

21.5.23.4 Determine if the discharge of firearm or in-custody death is in compliance or out of compliance with policy.

21.5.23.5 To reach and document their conclusions and recommendations and forward a final report to the Chief of Police.

21.5.24 Firearm/In Custody Death Review Board Recommendations for Findings of Non Compliance: When the Board finds that the use of force was out of compliance with policy, their recommendation may include, but is not limited to:

- Remedial Training
- Equipment Modification
- Policy/SOP Modification
- Discipline up to and Including Discharge of Employment (Termination)