

Use of Force

300.1 PURPOSE AND SCOPE

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

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

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

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the deputy or another 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.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the deputy at the time, taken as a whole, including the conduct of the deputy and the subject leading up to the use of force.

300.2 POLICY

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

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

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

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300.2.1 DUTY TO INTERCEDE AND REPORT

Any deputy present and observing another law enforcement officer or a member 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.

Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

300.2.2 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

300.3 USE OF FORCE

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

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

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

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

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

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

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300.3.2 USE OF FORCE TO EFFECT AN ARREST

A deputy making a lawful arrest may use reasonable force to effect the arrest and to overcome any actual or threatened resistance (La. Code Crim. P. art. 220).

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to deputies or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with deputy commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the deputy.
- (l) Potential for injury to deputies, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have

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successfully completed office-approved training. Deputies utilizing any pain compliance technique should consider:

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

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

300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, deputies are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, deputies should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

300.3.6 CAROTID CONTROL HOLD

No neck restraints or choke holds are approved for use by the East Baton Rouge Parish Sheriff's Office, unless the use of deadly force is objectively reasonable as detailed below.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the deputy shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the deputy has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

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

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the deputy or another person. An imminent danger may

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also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the deputy believes the individual intends to do so.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, deputies should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

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

Deputies shall not shoot at any part of a vehicle in an attempt to disable the vehicle unless the use of deadly force is objectively reasonable.

300.5 REPORTING THE USE OF FORCE

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

The act of pointing a Firearm or Taser at a subject in order to gain compliance or De-escalation is a use of force and will be documented with a use of force report.

See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS 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 deputy to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER (TM), OC spray, or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.

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- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

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

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

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

300.7.1 SHIFT SUPERVISOR RESPONSIBILITY

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

300.8 TRAINING

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

Subject to available resources, deputies should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.9 USE OF FORCE ANALYSIS

At least annually, the Training Director should prepare an analysis report on use of force incidents. The report should be submitted to the Sheriff. The report should not contain the names of deputies, suspects or case numbers, and should include:

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- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

PREVENTING SEXUAL MISCONDUCT

345.1 PURPOSE

The purpose of this policy is to clearly state the East Baton Rouge Sheriff's Office stance on sexual misconduct and to ensure that its members understand the Office's position and their specific roles and responsibilities. Law Enforcement Agencies have a duty to prevent sexual victimization and to ensure it is not perpetrated by their employees. As such this policy applies to all EBRSO members (full-time, part-time employees and Reserve Deputies).

345.2 POLICY

The EBRSO is committed to preventing, identifying and eliminating sexual misconduct by its members and has zero tolerance for such behavior. All allegations will be promptly and thoroughly investigated, even if the member resigns. Sustained findings of sexual misconduct will result in disciplinary action, up to and including termination, and criminal prosecution, if applicable.

On-duty sexual activity is strictly prohibited. Off-duty sexual activity on agency property (building and vehicles) is also prohibited. See also the East Baton Rouge Parish Prison Rape Elimination Policy as well as the Discriminatory Harassment Policy.

345.3 DEFINITIONS AND EXAMPLES

Sexual Misconduct encompasses criminal as well as non-criminal sexual conduct that is inappropriate, unprofessional and damaging to the public confidence in the EBRSO. The various forms of sexual misconduct may be directed at coworkers, citizens, detainees, juveniles, and crime victims or witnesses. Forms may include, but are not limited to the following:

- (a) Sexual contact by force (e.g., sexual assault, rape);
- (b) Sexual shakedowns (e.g., extorting sexual favors in exchange for not ticketing or arresting a citizen);
- (c) Gratuitous physical contact with suspects (e.g., inappropriate or unnecessary searches, frisks or pat-downs);
- (d) Officer-initiated sexual contacts while on duty;
- (e) Sexual harassment of co-workers;
- (f) Engaging in citizen initiated sexual contact while on duty;
- (g) Sexual behavior while on duty (e.g., masturbation, viewing and/or distributing pornographic images, sexting);
- (h) Voyeuristic actions that are sexually motivated (e.g., looking in windows of residences for sexually motivated reasons);
- (i) Unnecessary contacts/actions taken by officers for personally and/or sexually motivated reasons (e.g., unwarranted call backs to crime victims, making a traffic stop to get a closer look at the driver for non-professional reasons);

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- (j) Inappropriate and unauthorized use of department resources and/or information systems for other than legitimate law enforcement purposes

(Source Addressing Sexual Offense and Misconduct by Law Enforcement, Executive Guide, IACP, June 2011)

345.4 REPORTING PROCEDURES

Complaints from citizens, detainees, crime victims or witnesses will be received by Internal Affairs. If the allegation rises to the level of criminal activity, then Internal Affairs will contact EBRSO Detectives to investigate. If the complaint concerns non-criminal sexual behavior, Internal Affairs will conduct the investigation.

Supervisors and EBRSO members who have knowledge of actual or potential sexual misconduct are required to notify Internal Affairs, Human Resources or their supervisor. It is not necessary to directly confront the person who is the source of the report, question or complaint before making notification. Failing to report sexual misconduct may result in disciplinary action, unless the employee who fails to report is the victim of the misconduct.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary. The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action or criminal prosecution.
- (c) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

345.5 ANTI-RETALIATION AND FALSE ALLEGATIONS

The EBRSO prohibits retaliation made against any employee or other person who lodges a good faith complaint of sexual misconduct or who participates in any related investigation.

Making knowingly false or malicious accusations of sexual misconduct can have serious consequences for those who are wrongly accused. The EBRSO prohibits making false or malicious allegations as well as deliberately providing false information during an investigation. Anyone who violates this policy is subject to disciplinary action, up to and including termination, and criminal prosecution, if applicable.

345.6 INVESTIGATION

The EBRSO will conduct a thorough investigation of every reported allegation even when the accused member resigns or when the victim is reluctant to participate. Every reasonable effort will be made to keep matters involved in the allegation as confidential as possible while still allowing for a prompt and thorough investigation.

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345.6.1 ADMINISTRATIVE INVESTIGATION PROCEDURES

Administrative investigations will be conducted by a member of the Internal Affairs Division. The following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) No more than two interviewers should ask questions of an accused employee.
- (c) Prior to any interview, an employee should be informed of the nature of the investigation.
- (d) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a Garrity advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation.
 - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (e) The interviewer should record all interviews of employees and witnesses.
- (f) All employees shall provide complete and truthful responses to questions posed during interviews.
- (g) Complaints shall be classified with one of the following dispositions:
 - 1. **Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve office members. Complaints that are determined to be frivolous will fall within the classification of unfounded.
 - 2. **Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.
 - 3. **Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.
 - 4. **Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.
- (h) If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

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345.6.2 CRIMINAL INVESTIGATION PROCEDURES

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. A separate administrative investigation may parallel a criminal investigation.

The Sheriff shall be notified as soon as practicable when a member is accused of criminal conduct. The Sheriff may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The East Baton Rouge Parish Sheriff's Office may release information concerning the arrest or detention of any member, including a deputy, which has not led to a conviction.

345.6.3 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Office, the Sheriff or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- May be required to relinquish any office badge, identification, assigned weapons and any other office equipment.
- Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

345.7 STRATEGIES TO PREVENT SEXUAL MISCONDUCT

345.7.1 HIRING

The EBRSO attempts to recruit and hire individuals who demonstrate high standards of integrity by screening out those who do not exhibit the ethical characteristics necessary for a law enforcement career. The selection process includes oral interviews, criminal history checks (including the national sex offender registry), polygraph examination, psychological risk assessments and employment reference checks. Any candidate found through these processes to have a history of sexual misconduct or unacceptable sexual activities is deemed ineligible for employment.

345.7.2 TRAINING

All EBRSO employees are required to take annual training on Preventing Sexual Harassment. All Law Enforcement and Corrections employees are required to take Preventing Sexual Misconduct training as part of their annual In-Service training.

Disciplinary Board

1033.1 PURPOSE AND SCOPE

This policy establishes specific guidelines for a disciplinary process and provides a framework for administering disciplinary actions in a manner that is consistent. It addresses formal disciplinary actions from written reprimands, suspensions without pay, transfers, demotions, and terminations as well as any other disciplinary complaint the Sheriff deems eligible for hearing by the Disciplinary Board.

Nothing in this policy shall be interpreted to eliminate or modify in any way, the at-will employment status of East Baton Rouge Parish Sheriff's Office members.

1033.1.1 DEFINITIONS

Gross Misconduct - Any policy violation or criminal violation so egregious that warrants immediate disciplinary action determined by the Sheriff.

Investigator - The EBRSO member who prepares the blue and white report.

Progressive Discipline - A series of increasingly severe disciplinary penalties for repeated offenses.

1033.2 POLICY

The Office strives to resolve work performance and behavior problems by utilizing an informal process between the supervisor and the member whenever possible. However, there are circumstances when work performance and behavior problems must be resolved through a formal disciplinary process. The Colonel has the option to forward any such disciplinary matters to the Disciplinary Board for consideration.

Most often conduct that warrants discipline results from unacceptable behavior, poor performance, or violation of the East Baton Rouge Parish Sheriff's Office's policies and procedures. However, discipline may be issued for conduct that falls outside of those identified areas.

All instances of member misconduct will be appropriately investigated. When the allegations involve serious misconduct, the Internal Affairs Division will conduct administrative investigations as needed. If criminal misconduct is alleged, then a criminal investigation may be conducted. The criminal investigation will take precedence over the administrative investigation.

Multiple incidents of the same misconduct are not needed to move to the next level in progressive discipline. Violations of different policies or procedures may be considered the same as repeated violations for the purposes of progressive discipline.

The East Baton Rouge Parish Sheriff's Office reserves the right to take whatever action it deems necessary to address the issue at hand even if it does not follow the progressive discipline model.

All disciplinary actions ordered by the Sheriff or the authorized designee are final and there is no appeal process.

Disciplinary Board

1033.3 DISCIPLINARY BOARD

The purpose of the Disciplinary Board is to consider the mitigating circumstances involved in the member's decisions and actions related to the incident under review. The Disciplinary Board will consider the totality of the situation prior to and during the event which led to the investigation of the member, including training and policy failures.

The Disciplinary Board is comprised of a Chairman (Major or Captain) selected by the Colonel. The board members will consist of 2 representatives from Criminal Division, 2 from the Corrections Division and 1 from the Civil Division. Additionally to ensure fairness and transparency, there will be 1 additional board representing the division in which the member under review works. For example, if the member works in the Criminal Division, the Board will have 3 members from the Criminal Division, 2 from Corrections and 1 from Civil. In the event that a board member is not able to attend the hearing each board member will have an alternate to fill in during their absence.

The board members will hold the rank of Lieutenant or above. The board members are selected by the Majors, Warden and Colonel. Board members will serve a 12-month term.

1033.4 DISCIPLINARY BOARD HEARINGS

The Board will hear disciplinary complaints which rise to the level of suspension without pay, transfer, demotion, and termination. The Board will also hear disciplinary matters that involve repeat offenders. Minor policy infractions which do not rise to the level of a hearing will be handled by the division head as needed (Major or above).

The Board shall convene as needed to determine any mitigating circumstances resulting from any administrative investigation which will include the member and the investigator will be present at the meeting. Prior to the meeting the board members shall review the investigation report. Until an official action is taken, all materials related to the allegations and investigation are confidential.

Incidents of gross misconduct will not be heard by the discipline board. The Sheriff shall have sole authority to initiate any form of discipline to address the gross misconduct.

The Accident Review Board is not part of this Disciplinary Board and will continue to rule on auto accidents according to Accident Review Board Policy.

1033.4.1 ORDER OF EVENTS

- (a) The investigator will present the facts of the investigation. The investigator will provide information regarding the member's complete complaint/misconduct/disciplinary action history and the number of commendations the member has received.
- (b) The member who is the subject of the hearing will appear and be given an opportunity to make a statement to the Disciplinary Board. The member must wear one of the following:
 1. Class A or duty uniform
 2. A full suit or sports coat, slacks, dress shirt, and tie, or for female members, a dress, suit, or blouse with dress slacks or skirt.

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3. All members will appear in appropriate footwear.
- (c) Upon the conclusion of the Disciplinary Board hearing the member will be excused. The Investigator will remain to answer any questions or to clarify the facts as needed during the Board's deliberations.
- (d) The board shall consider all information presented and deliberate to decide whether to recommend any disciplinary or corrective action. In order to accomplish the objectives as equitably as possible, deliberations should address the following issues:
 1. Past practices regarding similar issues
 2. Legal aspects of the issue involved;
 3. Progressive discipline if appropriate;
 4. The members past disciplinary record;
 5. Training or retraining to eliminate/correct pattern of violations;
 6. Other actions directed toward behavior adjustment.
- (e) The Chairman will make the final recommendation on the discipline or corrective action to the Colonel.
- (f) The Colonel will provide the Sheriff with the Discipline Board's recommendation.
- (g) The Sheriff will make the final decision. He may modify, amend or accept the recommendation of the Disciplinary Board to levy the level of discipline he deems appropriate.
- (h) All copies of the investigation and summaries will be returned to Internal Affairs.

1033.5 PROGRESSIVE DISCIPLINE

The Office's disciplinary process provides a guideline of available options to address work or behavior problems. Discipline may begin with any step of the disciplinary process, but the process does not require that a disciplinary action be administered in progressive steps or in a particular order. The instances of misconduct need not be similar or related. The Office can consider aggravating circumstances as well as the severity and frequency of the behavior. First, second, and third, violations are defined as any sustained formal discipline within the last (3) years from the date of the alleged misconduct.

Supervisors must meet with members to discuss expectations when their work performance or behavior is unsatisfactory. The goal of the counseling session is to identify the expected standard of performance and behavior. A record of this meeting will be maintained by the supervisors.

- (a) Disciplinary options in descending order of severity (most to least) are:
 1. Formal Disciplinary Actions
 - (a) Termination
 - (b) Demotion
 - (c) Transfer

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- (d) Suspension without pay
- (e) Written reprimand
- (b) Corrective Actions -- should be used when it is likely to be successful in improving member conduct
 - 1. Counseling Session
 - 2. Training or Retraining
 - 3. Restitution for loss or damage to Sheriff Office property may be ordered when appropriate

1033.5.1 WRITTEN REPRIMANDS

The member's supervisor is responsible for administering this action. Prior to presenting formal disciplinary action to a member, supervisors must consult with the Major over their division. Written reprimands must contain the following:

- (a) A clear concise reason for the reprimand.
- (b) The policy violated or the unacceptable behavior.
- (c) Clear resolution that successfully explains to the member future steps that resolve the misconduct.
- (d) Resources available to assist the member (if applicable)
- (e) A place for the member to respond to the reprimand
- (f) Signature of the supervisor and member
- (g) Written Reprimands may be issued without a Disciplinary Board Hearing.

1033.5.2 SUSPENSION

The Disciplinary Board will have the authority to recommend to the Colonel that a policy violation, misconduct or unacceptable work performance meets the standard for a suspension. Suspension shall mean time off without pay, not allowed to work extra duty details, must turn in unit, commission, and firearm(s).

1033.5.3 TRANSFERS, DEMOTIONS, AND TERMINATIONS

The Disciplinary Board will have the authority to recommend to the Colonel that a policy violation, misconduct or unacceptable work performance meets the standards for transfer to another division, demotion or termination.

The Sheriff or the authorized designee will have sole authority to impose any transfer to another division, demotion or termination, regardless if the matter was heard by the disciplinary board.