

Personnel Resources Management

Departmental Order 6
Chapter 21

USE OF FORCE

Section

- 21.1 Policy
- 21.2 Organization
- 21.3 Responsibilities
- 21.4 Procedures

21.1 POLICY: The Miami Police Department 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.

21.1.1 Use of Force Generally – “Minimum Necessary Force”: It is the policy of the Miami Police Department 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.

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 sworn officers of the Miami Police Department to adhere to this policy. It is the responsibility of all commanding officers to insure that all sworn officers in their command are informed trained and in compliance with these policies and procedures as stated.

21.3.1 It is the officer's responsibility to notify the supervisor that force (specified in 21.4.2) has been used. This should be done immediately and, if possible, while the officer is still at the scene of the incident.

21.4 PROCEDURES GOVERNING THE USE OF FORCE:

21.4.1 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 handout provided in Departmental Order 6, Chapter 21.4.1.1.

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

RESISTANCE LEVELS	Recommended Response to Resistance Matrix													
	1 Officer Presence		2 Communication			3 Physical Control				4 Intermediate Weapons	5 Incapacitating Control	6 Deadly Force		
6 Aggravated Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5 Aggressive Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
4 Active Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
3 Passive Physical	✓	✓	✓	✓	✓	✓	✓	✓	✓					
2 Verbal	✓	✓	✓	✓	✓	✓								
1 Presence	✓	✓	✓	✓	✓	✓								

RECOMMENDED RESPONSE LEVELS
RESISTANCE MATRIX

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

21.4.1.3 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.

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

21.4.1.5 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 to him/her.

21.4.1.6 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.

21.4.1.7 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.

21.4.1.8 Officer Response Levels:

21.4.1.9 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 subject that he/she is dealing with an officer. Interview Stance: The officer adopts a stance outside of his/her danger zone that provides appropriate protection and forms the basis of an effective physical response if attacked. In such a stance, the firearm or strong side leg is back; the non-firearm or weak side leg is forward; the feet are about shoulder width apart; knees slightly bent giving balance, control, and a lower body center of gravity; equally distributed body weight; and the hands are up for guarding the upper body.

21.4.1.10 Level 2 – Communication – Dialogue: A two-way, controlled, non-emotional communication between the officer and subject, aimed at problem identification and/or resolution. Verbal Direction: An officer tells or commands a subject to engage in, or refrain from a specific action or non-action. Touch: An officer employs a soft assisting touch to comfort, console, or to obtain the attention of a subject or citizen in a non-confronting situation.

21.4.1.11 Level 3 – Physical Control – Restraint Devices: Mechanical tools used to restrict a subject's movement and facilitate searching; such as, handcuffs, flex cuffs, leg irons, belly chains, optional nylon, restraining device, etc. Less Than Lethal Force: Techniques used to control a subject when a threat to assault an officer or citizen: 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. 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. Take Downs: Techniques that redirect, in a controlled manner, a subject to the ground in order to limit his/her physical resistance and to facilitate the application of a restraint device. 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.

21.4.1.12 Level 4 – Intermediate Weapon - Weapon that is primarily used to control a subject such as a baton ASP or PR-24. Restraint Devices: OC spray, E.C.D.

(Electronic Control Device), Asp, PR-24, handcuff, hands, and kinetic energy impact projectiles (bean bags, stingers, pepper balls, rubber batons, rubber pellets - SWAT use only). 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.

21.4.1.13 Level 5 – Incapacitating Control – 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.

21.4.1.14 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. Deadly Force techniques are a last resort.

21.4.1.15 The recommended Use of Force/Level of Resistance Matrix is to be used as a guideline for an officer to select effective, reasonable and legal force options in a verbal or physical encounter. As a subject increases his/her resistance level from verbal to physical, an officer may have to increase the level of his/her response until the resistance ceases and the officer is able to gain control of the subject. As soon as the point of subject compliance is reached, the officer must de-escalate his/her response level to the minimum force necessary to control the subject.

21.4.1.16 In properly determining the appropriate response to a subject's resistance, several factors must be evaluated by an officer. For instance, an unarmed small framed, female, juvenile subject may be displaying Level 5 resistance, but would probably only require a Level 3 response by the average officer. On the other hand, a single officer faced with a very large professional wrestler or football player may very well find that his/her response to even mild resistance must be escalated to a relatively high point on the matrix. It must be remembered that by law, an officer need not retreat in his/her efforts to lawfully control a subject, but may utilize the amount of force necessary to accomplish his/her task. This is not to say that a tactical retreat in the face of overwhelming odds may not be a wise choice. Officers must also be cognizant to follow the established procedures under the Crisis Intervention Team guidelines and/or Departmental Order 11, Chapter 11 for handling subjects who suffer from mental illness or emotional disorders.

21.4.1.17 Use departmentally approved and issued O.C. spray in accordance with Departmental Order 6 Chapter 17.

21.4.1.18 Use departmentally approved and issued striking instrument on portions of the subject's body other than the subject's head in accordance with Departmental Order 6, Chapter 14 (Baton PR-24), and Departmental Order 6 Chapter 15 (Baton ASP Expandable).

21.4.1.19 E.C.D. – Use departmentally approved and issued E.C. D. in accordance with Departmental Order 6, Chapter 18.

21.4.1.20 Drawing Firearms: The Miami Police Department acknowledges the practical need for officers to un-holster or draw their firearms in certain situations requiring caution

for the officers' safety (i.e.: building searches for burglary subjects, checking suspicious vehicles, etc.) When an officer draws a firearm, the following shall be adhered to:

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. 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.
2. Unless imminent danger of death or great serious physical injury exists, officers shall maintain their trigger finger outside the trigger guard (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).
3. An officer shall not have an un-holstered weapon nor be in possession of a shotgun when searching, handcuffing, or handling a subject.
4. 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.
5. 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.

21.4.1.21 Medical Attention: In use of force incidents, both less than lethal and lethal, medical attention may be required. If a subject complains of pain or injury; is unconscious; or, in the opinion of the concerned officer or supervisor, has an apparent injury requiring medical attention, officers shall request a fire-rescue unit be dispatched to the scene. 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, fire rescue must be called to the scene.

21.4.2 PROCEDURES FOLLOWING THE USE OF FORCE:

21.4.3 Situations Requiring a Response to Resistance Report (RF #186): The Response to Resistance Report (R.F. #186) will be completed whether or not an arrest is made, under the following circumstances:

21.4.3.1 When striking, kicking, hitting a subject.

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

21.4.3.3 When there is a complaint of injury and the injury is visible.

21.4.3.4 When a leg restraint device is utilized (Hobble).

21.4.3.5 When a K-9 bite occurs in accordance with Departmental Policy.

21.4.3.6 When an officer uses OC Spray in accordance with the Departmental Policy.

21.4.3.7 When an officer uses the E.C. D. in accordance with Departmental Policy.

21.4.4 Situations Not Requiring a Response to Resistance Report (RF #186): The Response to Resistance Report (RF #186) will not be written under the following conditions:

21.4.4.1 When the force used was routine (less force than that referenced in 6.21.4.3) and normal in controlling, searching, and/or handcuffing a subject and the criteria requiring a Response to Resistance Report (RF #186) specified in Departmental Order 6, Chapter 21 has not been met.

21.4.4.2 When the subject was injured prior to the arrest; e.g., fleeing, jumping a fence, etc. A report will be written in these instances.

21.4.4.3 When the subject is accidentally injured after the arrest; e.g., injured in transport. A report will be written in these instances.

21.4.4.4 When a subject accidentally or purposely injures himself/herself; e.g., strikes his head against the wall, etc. A report will be written in these instances.

21.4.5 Key Elements To Be Included In The Response to Resistance Report (RF #186): In situations as described in section 6.21.4.3 which require a Response to Resistance Report (RF #186), one individual report will be written for each subject for whom a physical response was necessary. If more than one officer is involved in the use of force, each officer will sign each report.

21.4.5.1 Type of Incident: On the first line in the upper right-hand corner, indicate the type of original incident (B&E, Larceny, Questioning Subject, etc.); also, if a weapon was discharged (B&E/Firearms, etc).

21.4.5.2 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.

21.4.5.3 The Crime Scenes Investigations Unit (C.S.I) will be responsible for documenting the injuries through the use of color photographs. C.S.I. 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 officer will note the number of photos taken and the photographer's P.I.N. number (Example: 3/6280).

21.4.5.4 Reporting 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 ASP.") 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 21.4.3, is considered an "involved" officer and therefore will each review the narrative and sign the Response to Resistance Report (RF #186).

NOTE: Do not include details of the arrest in the narrative prior to detailing the force used.

21.4.5.5 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 Ward D (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. The responding on duty lieutenant or commanding officer will make a notation on the narrative portion stating he was on the scene, reviewed the report and concurs with the initial facts.

21.4.6 Distribution and Content Of Response to Resistance Report Package: A Response to Resistance Report package shall consist of the Response to Resistance Report (RF #186), all reports made relating to the incident, the ID Unit photographs of the subject and the officer (if required), and J.M.H. Medical Reports, if available.

21.4.6.1 An original and one copy will be made of the entire package. Its destination will be marked at the top center of the first page of the package. The distribution will be as follows:

21.4.6.1.1 The original will be forwarded to the Chief of Police, or designee, through channels.

21.4.6.1.2 The package containing the copies will be submitted to Internal Affairs before the end of the involved officers' tour of duty. It will be the commanding officer's responsibility to review, sign, date and ensure that the report is placed inside of the Internal Affairs Response to Resistance Box. Failure to submit the copy at the end of tour of duty will result in disciplinary action.

21.4.6.1.2.1 Communications 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).

21.4.7 PROCEDURES FOR THE USE OF DEADLY FORCE:

1. Police 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.
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.
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.
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 he/she has 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 Departmental Order 11, Chapter 11.

Definitions:

- In determining whether a "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.
- Serious physical injury includes, but is not limited to, an injury which creates a substantial risk of death or serious personal disfigurement, disability, or protracted loss or impairment of the functioning of any organ or part of the body.
- Imminent danger/threat means immediate danger that must be instantly met in self-defense or in the defense of another person.

- 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.

21.4.8 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 his/her respective supervisor immediately. The supervisor shall ensure the immediate notification of his/her respective Commanding Officer, the Staff Duty Officer, and the Internal Affairs Division. If the Commanding Officer is not available, the supervisor shall notify any on-duty Commanding Officer of the Patrol District. The full Shooting 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 Division Investigator, and if appropriate, the Shooting Team.

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

The officer(s) involved in a Category 3, 4 or 5 Discharge shall be assigned to administrative duties for a minimum of 3 days by the officer(s) division chief of designee. During this 3-day period, the officer will be required to attend Post Traumatic Counseling. The commander of the Internal Affairs Division will ensure the officer is provided with this counseling. Officer(s) involved in a category 1 or 2 discharge may be assigned to administrative duties at the division chief's or designee's discretion.

21.4.9. Categories/Types/and Responses/Reports:

All Discharge of Firearms whether "On" or "Off-Duty"

Report or Response Required	CATEGORY 1	CATEGORY 2	CATEGORY 3	CATEGORY 4	CATEGORY 5
Report	No Injury Accidental or Dangerous Animal	No Injury Duty Related	Injury Accidental	Injury Duty Related	Death Accidental or Duty Related
Report: Appropriate Jurisdiction Incident Report	YES	YES	YES	YES	YES
Report: Discharge of Firearm	YES	YES	YES	YES	YES
Report: Shooting Team File Report (301) & Supplementary Report	NO	YES	YES	YES	YES
Report: Internal Affairs Report of Investigation (memorandum)	YES	YES	YES	YES	YES
Response: Police Jurisdiction	YES	YES	YES	YES	YES
Response: Chain of Command	YES	YES	YES	YES	YES
Response: I.A. Investigator and Notification	YES	YES	YES	YES	YES
Response: Shooting Team	NO	YES	YES	YES	YES

* The commanding officer shall submit a written report (Discharge of Firearms Supplemental Report, R.F. # 184) through channels to the Internal Affairs Division within 48 hours on all categories of discharge of firearms.

21.4.10 Category 1: Each Category 1 discharge of firearm shall be investigated by the Internal Affairs Division.

21.4.10.1 The Commanding Officer shall submit a detailed written report (Discharge of Firearms Supplemental Report, R.F. #184) within 48 hours to the Internal Affairs Division (I.A.D.) through channels. Report requirements are as follows:

21.4.10.1.1 All pertinent details and facts of the shooting incident.

21.4.10.1.2 A diagram of the shooting scene.

21.4.10.1.3 A conclusion will not be rendered in the Discharge of Firearms Supplemental Report (RF 184) by the investigating Commanding Officer. The Firearms 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.

21.4.10.1.4 The Internal Affairs investigator will submit a separate fact finding report (Report of Investigations (memorandum)) which will be routed to the Firearms Review Board. The Internal Affairs report will not render a conclusion.

21.4.11 All Discharge of Firearms Supplemental Reports (RF 184) will be routed to the Internal Affairs Division for review and conclusions.

21.4.12 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.

21.4.13 Category 2, 3, 4 or 5: If the shooting is a Category 2, 3, 4 or 5 discharge of firearm, the officer's Commanding Officer and the On Duty Homicide Unit Sergeant shall ensure the notification of the Shooting Team, Crime Scene Investigation, Risk Management, Police Legal Advisor, and the Staff Duty Officer. (Internal Affairs and the Staff Duty Officer shall be notified of all discharge of firearms regardless of injury to persons or property).

21.4.14 The Shooting Team: The commander of the Internal Affairs Division will designate a lead investigator (commanding officer) assigned to the Shooting Team from his/her division. Additionally, the Commander of the Criminal Investigations Section will designate a lead investigator (commanding officer) assigned to the Shooting Team from his/her section.

21.4.14.1 Lead Investigator: The lead investigator (commanding officer) from the Internal Affairs Division will participate in the Shooting Team as an independent body to ensure the integrity of the investigation and to verify that all aspects of the process have been properly followed. The rank of the individuals involved in the discharge may necessitate a higher-ranking person be designated as the Lead Investigator for the Internal Affairs Division. The lead Homicide Unit investigator (commanding officer) will direct the criminal investigation of any crime(s) and/or criminal activity directly or indirectly related to the incident.

21.4.14.2 Composition of Shooting Team: The Shooting Team will be comprised of a Commanding Officer from the Internal Affairs Division, a Commanding Officer from the Homicide Unit, a supervisor from the Crime Scene Investigations Unit and any additional support personnel identified by the respective Division/Section. The Shooting Team will respond to all Category 2, 3, 4, and 5 shootings.

21.4.14.3 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 Team, it is the responsibility of the supervisor of the Crime Scene Investigations Unit to ensure that the crime scene(s) are properly prioritized and handled correctly during the course of the investigation.

21.4.14.4 Other 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 Team. However, in incidents not involving Miami Police employees, the Shooting Team will not respond and the Homicide Unit will have the sole and primary responsibility for investigating the incident.

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

Discharge Officer's Commanding Officer
State Attorney's Office Representative
Medical Examiner's Office Representative
Public Information Office Representative
Police Legal Advisor

21.4.15.1 Sworn Statement Procedures: The necessity to obtain sworn statements from an officer(s) will probably exist in all discharge situations. In these instances the Internal Affairs Investigator will take sworn statements. The investigator will clearly enter into the record the circumstances under which the statement is being provided, whether voluntary, under Garrity warnings, or under Miranda warnings. NOTE: Special attention must be given to ensure the officers being interviewed understand when the Garrity rule is and is not in effect.

21.4.15.2 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 Team commanding officer. 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 (C.C.T.V.).

1. Interviewee
2. Stenographer
3. Lead investigators (commanding officers) from I.A.D. and C.I.S.
4. Assistant State Attorney
5. Officer's attorney or representative
6. Police Legal Advisor

21.4.15.3 Miranda Warnings: The Internal Affairs investigator will take officers' statements. 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.

21.4.15.4 Voluntary Statement: 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.

21.4.15.5 Garrity Statement: Once the determination has been made that the discharge of firearm will not result in a criminal case, a "Garrity Statement" may be required. The Internal Affairs investigator may take this statement.

21.4.15.6 Officers' Union Representative: Preserving the integrity of the investigation is of paramount importance. Therefore, union representatives representing the officers should not be permitted to converse with more than one officer.

21.4.15.7 Confer with Assistant State Attorney: The Shooting 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 Team will also comply fully with the current written "Police Shooting Policy" issued by the State Attorney's Office and adopted by the Miami Police Department.

21.4.15.8 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 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 Division.

21.4.15.9 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 Division.

21.4.15.10 Report of Investigation (memorandum): In Category 1 through 5 shootings, the Internal Affairs Division will deliver a preliminary findings 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.

21.4.16 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 I.A.D. and Homicide Unit Shooting Team commanding officers 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 Commander of the Internal Affairs Division, the Criminal Investigation Division Chief, the Chief of Operations or the Chief of Police will provide such interviews or statements. The Chief of Police will designate the appropriate person to handle the interview or statement.

21.4.17 Inter-Agency and Intra-Agency Responsibilities and Coordination:

21.4.17.1 It is the duty of the Internal Affairs Division and the Homicide Unit to respond to Category 2-5 police involved firearm discharges to investigate the incident.

The Homicide Unit will be responsible for investigating any criminal violations by a civilian 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 Internal Affairs Division will be responsible for investigating any departmental or procedural violations associated with the officer involved in the incident. Additionally, it is the responsibility of the Internal Affairs Division 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.

Notwithstanding an investigative urgency and as soon as practical, upon arrival to a scene the commanding officers of the Internal Affairs Division and the Homicide Unit, **together**, will be briefed by the commanding officer. 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 to the homicide commanding officer and notify the Communications Section of the change of command. Prior to entering the scene, the Internal Affairs Division and the Homicide Unit commanding officers (or higher ranking officers) will coordinate the investigation. Any issues and/or concerns identified by either at the time will be resolved prior to initiating the investigation. Any conflicts will be resolved by the respective Division/Section majors. Conflicts that cannot be resolved by the respective division/section majors will be resolved by the Chief of Operations.

The Internal Affairs Division's investigative team will have complete access to all areas of the homicide investigation and 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., It is the responsibility of the Internal Affairs Division 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.

Any officer interviews will be conducted by the Internal Affairs Division investigator consistent with §112. 532. All walkthroughs and inspections of the officer's weapons will be conducted by the Internal Affairs Division investigator. The lead investigator of the Internal Affairs Division will coordinate with the Homicide Unit lead investigator to identify

the interview questions related to the officers' statements. Notwithstanding an investigative urgency, the Internal Affairs Division investigator will be present on all witness/officer interviews.

21.4.17.1.1 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. The intent of this procedure is to ensure public safety.

21.4.17.1.2 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 and for public safety, direction of firearm discharge.

21.4.17.1.3 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 Division 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.

21.4.17.1.4 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.

21.4.17.1.5 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.

21.4.17.1.6 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. 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 Commander of the Internal Affairs Division. 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.

21.4.17.1.7 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.

21.4.17.1.8 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.

21.4.17.1.9 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.

21.4.17.2 Category 1 shootings will be investigated by the Internal Affairs Division.

21.4.17.3 Category 2, 3, 4 and 5 shootings will be investigated by a full Shooting Team with representatives from the Internal Affairs Division, Homicide Unit, Crime Scene Investigations Unit, and possibly other law enforcement agencies, as dictated by the seriousness of the incident. When designated as a member of a Shooting Team, all representatives are full and complete participants in the investigation. All Shooting Team members must be cognizant of the necessity to assume passive roles at appropriate times to fulfill requirements of law and for the preservation of evidence and investigative integrity.

The Internal Affairs Division will be responsible for investigating any departmental or procedural violations associated with the officer involved in the incident. Additionally, it is the responsibility of the Internal Affairs Division 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.

The Homicide Unit will be responsible for investigating any criminal violations by a civilian 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.

21.4.17.4 The primary reporting responsibility for all discharges involving department personnel occurring outside the City of Miami jurisdiction rests with the Internal Affairs Division.

21.4.17.4.1 Responding Internal Affairs investigators will coordinate their efforts with the lead investigator of the reporting jurisdiction.

21.4.18 In Police Custody Death: An "In Police Custody Death" will be investigated by the Internal Affairs Division. Unless requested by the Internal Affairs Division, the Homicide Unit will not investigate these incidents. An "In Police Custody Death" will be handled in the same manner as a Category 5 Discharge of Firearm. Any officer involved in an "In Police Custody Death" incident shall be reassigned to administrative responsibilities for a minimum of 3 days or until such time that it has been determined that the officer is cleared to return to regular duty. Only the respective Division Chief may authorize the officer's return to regular duty.

21.4.18.1 Complete in-custody death investigations will be routed for review as a normal administrative investigation. The investigative package will not be forwarded to the Discharge of Firearms Advisory Committee.

21.4.19 Discharge of Firearms Review Board:

21.4.19.1 As soon as practical after the completion of the Discharge of Firearms Supplemental Report (R.F. #184) and the Internal Affairs Report of Investigations (memorandum), the Deputy Chief of the Field Operations Division will convene the Firearms Review Board.

21.4.19.2 The board will be comprised of the following personnel:

21.4.19.2.1 The Chief of Operations, Chairperson.

21.4.19.2.2 The Chief of the Administration Division.

21.4.19.2.3 The Chief of the Investigations Division.

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

21.4.19.2.5 The commanding officer of the Training Unit who serves in an advisory capacity.

21.4.19.2.6 If a Division Chief is unable to attend, he/she may appoint a major from his/her division to represent him/her on the board.

21.4.19.3 The board's purpose will be as follows:

21.4.19.3.1 To determine if the discharge of firearm is in compliance with the Florida Statutes; Civil Service Rules and Regulations; and Departmental Rules and Regulations, Orders, Standard Operating Procedures , policy and training.

21.4.19.3.2 To determine if the Departmental Rules and Regulations and Departmental Orders provided adequate direction given the circumstances of the discharge.

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

21.4.19.4 If disciplinary action involves or calls for termination, the officer's commanding officer will relieve him of duty with pay until the disciplinary process is completed. The officer will be reassigned to an administrative task until a final determination is made, however the Chief of Police may provide other assignments or direction regarding the officer's status.

21.4.19.5 If the discharge is found justified by the Chief of Police, the officer shall be returned to normal duty as quickly as possible.

21.4.19.6 The Division Chief will personally review the case and make the necessary reassignment decisions.

21.4.20 Unauthorized Discharge of Firearms Penalty Schedule: The following is the recommended minimum discipline schedule for a first offense, unauthorized discharge of firearms by department personnel. A second offense will automatically double the recommended discipline in the category it falls, except Subsection 21.4.20.6 where dismissal will be recommended.

21.4.20.1	Reasonable Action – Careless No One Placed in Danger	REPRIMAND + 20 HOURS FORFEITURE
21.4.20.2	Reasonable Action – Careless Someone Placed in Danger	REPRIMAND+40 HOURS FORFEITURE
21.4.20.3	Reasonable Action – Careless Someone Injured	REPRIMAND + 80 HOURS FORFEITURE
21.4.20.4	Unreasonable Action – Careless No One Placed in Danger	REPRIMAND + 80 HOURS SUSPENSION
21.4.20.5	Unreasonable Action – Careless Someone Placed in Danger	REPRIMAND + 120 HOURS SUSPENSION
21.4.20.6	Unreasonable Action – Careless Someone Injured	DISMISSAL