MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: OPERATION OF POLICE VEHICLES

EFFECTIVE DATE: Dec. 11, 1995 REVIEW DATE:

AMENDS/SUPERSEDES: Policy Dated February 1988 APPROVED James Thurault CHIEF OF POLICE

INDEX WORDS: police vehicles; operation of; pursuit; rules governing operation of police vehicles; definitions; unmarked police vehicles; inspection; driving rules; justification of pursuit; emergency driving; vehicle response codes; roadblocks; termination techniques; dispatchers' responsibillties(regarding emergency driving); rules of pursuit; abandoning pursuit; pursuit termination device; true emergency; due regard

I. POLICY

All personnel operating department vehicles shall exercise due regard for the safety of all persons. No task, call, or incident justifies disregard of public safety. Further the public expects its police officers to demonstrate exemplary driving behavior. All department personnel who operate police vehicles will comply with safe driving procedures outlined herein with particular attention to responding to calls for service or engaging in pursuits. Emergency warning devices shall be minimally used consistent with both legal requirements and the safety of the public and police personnel.

MINIMUM STANDARD: 1

II: PURPOSE

To establish procedures governing the operation of police vehicles, with special attention to emergencies and pursuit.

III. DEFINITIONS:

A. Normal or routine driving: That driving which dictates vehicle speed consistent with the normal flow of traffic, obedience to vehicle laws and posted signs, adherence to commonly-understood "rules of the road" and courtesy.

B. Pursuit driving: That driving concerned with the pursuit and apprehension of a violator or violators in a motor vehicle. Pursuits are conducted using emergency equipment.

MINIMUM STANDARD: 3

C. Emergency driving: That driving in response to a life-threatening or other serious incident (based on available information) which requires emergency equipment in operation.

D. Emergency equipment: Flickering, blinking, or alternating emergency lights and a siren, whistle or air horn designed to give intermittent signals automatically.

E. True Emergency: A situation in which there is a high probability of death or serious injury to an individual, or significant property loss, and in which the actions of the emergency vehicle operator may reduce the seriousness of the situation.

F. Due Regard: Actions which a reasonable careful police officer, performing similar duties and under similar circumstances, would perform in the same manner.

G. Pursuit Termination Devices: Instruments designed for use on road surfaces which will intentionally puncture tires and thereby permit controlled deflation of air.

Minimum Standard: 3

IV. PROCEDURES FOR ALL RESPONSES:

A. General:

1. All departmental vehicles will be driven safely and properly in full compliance with all traffic laws and regulations. Police vehicles are conspicuous symbols of authority on the streets and the actions of police drivers are observed by many. Each police driver must set an example of good driving behavior and habits.

2. Under certain emergencies as defined below, the Maine Motor Vehicle Code authorizes exercise of privileges concerning certain traffic regulations (M.R.S.A.29A section.2054); however, both the operator and the department are not released from civil liability for failure to use reasonable care in such operation. Improper driving can cause a police driver, personal civil damages while inflicting harm or injury to the driver, other law enforcement personnel, other citizens or causing property damage, and damaging the image of the department and law enforcement generally.

Minimum Standard: 2

B. Routine Operation:

1. In case of accident or damage to any police vehicle, the driver willimmediately request a supervisor. The supervisor will then contact an outside police agency to conduct an independent investigation. The report will be immediately documented on a state accident investigation form. The chief's designee will review all such reports and recommend appropriate action to the Chief of Police.

Minimum Standard: 14

2. Vehicles used in routine or general patrol service will be those that are conspicuously marked. Conspicuous marking increases safety, serves as a warning to potential violators, and provides citizens with a feeling of security.

3. Unmarked cars shall not be used for continuous pursuit but may be used for patrol. They may be used to stop vehicles provided they are equipped with suitably mounted emergency lights and sirens.

Minimum Standard: 10

4. Standard lighting equipment on marked vehicles may include but is not limited to, hazardous warning lights, spotlights, alley (side) lights, and a rooftop light bar. Alley lights and spotlights may be used when the vehicle is stationary or moving and shall not be used in a manner which will blind or interfere with the vision of operators of other approaching vehicles, unless deadly force is warranted.

5. Seat belts and shoulder straps will be worn by all police personnel or ride-alongs during normal vehicle operation. Prisoners shall be strapped in with seat belts whenever possible. An officer may disengage their seatbelt upon:

a. Approach to any scene of an incident or service call where the police officer believes a rapid departure from the vehicle may be required. Seat belts will be worn any time the vehicle is being operated under emergency conditions.

C. Inspection:

1. Officers shall perform a daily vehicle inspection to check the cleanliness, general operability of equipment, and fluid levels (oil. brake fluid, gas) of their assigned vehicles.

2. Officers shall examine their vehicles at the beginning and end of their shifts for damage. Officers shall report any damage immediately to the officer in charge.

3. Officers shall examine their vehicles at the beginning and end of their shifts to search for evidence, contraband, or property discarded by prisoners or others.

4. If, in the opinion of the chief of police, vehicle damage resulted from abuse or neglect caused by an officer, disciplinary action may result.

D. Driving rules:

1. Circumstances permitting, the driver shall check the safety features of his vehicle before commencing operation. The check should include (but not be limited to) all lights, brakes, siren, horn, and steering.

2. No driver shall modify, remove, de-activate, or otherwise tamper with the vehicle safety belts, emission control device, or any part of the vehicle which affects its operation.

3. During periods of inclement weather when police vehicles cannot be washed regularly, the driver must assure that headlight and taillight lenses are kept clean. insofar as circumstances permit.

4. No officer or employee shall operate any police vehicle which he believes to be unsafe, unless ordered to do so by a supervisor.

5. The driver shall exercise careful observation of surrounding conditions before turning or backing any vehicle.
6. The driver must recognize the variable factors of weather, road surface conditions, road contour, and traffic congestion, all of which directly affect the safe operation of any motor vehicle, and shall govern the operation of the vehicle in accordance with these factors.
7. The nature of certain crimes in progress may call for the use of the siren to be discontinued upon close approach to the location of the occurrence, and although such action is permitted by authority of this order, police vehicle operations under these conditions require extreme caution and compliance with all Maine Motor Vehicle Codes.
8. Emergency driving to the scene of a police incident is permissible ONLY when there is a high probability that a true emergency continues to exist.
9. Upon approaching a controlled intersection or other location where there is great possibility of collision, the driver who is responding under emergency conditions shall reduce the speed of his vehicle and control it to avoid collision with another vehicle or pedestrian, stopping completely, if necessary, before entering and traversing the intersection. When faced with a red traffic signal, the officer shall stop his vehicle and assure by careful observation that the way is clear before proceeding through the intersection.
10. At the scene of a crime, a motor vehicle crash, or other police incident, a police vehicle shall be parked in such a manner so as to protect the scene yet minimize obstacles or hazards to other traffic. The emergency lights and four-way flashing lights should always be used to warn other drivers approaching the location.
11. Operators of police vehicles must bear in mind that traffic regulations requiring other vehicles to yield the right of way to any emergency vehicle do not relieve the emergency vehicle operator from the duty to drive with due regard for the safety of all persons using the highways.
12. In case of pursuit, should the violator enter a one-way street against the flow of traffic, or enter a major highway or interstate freeway by proceeding along an exit ramp, the pursuing officer should not follow the violator but instead transmit via radio detailed observations about the suspect vehicle's location. speed, and direction of travel.

V. PROCEDURES FOR EMERGENCY DRIVING:

A. General:

1. No fixed rule can apply to every circumstance that may arise governing emergency driving. The department, however, imposes on the officer the duty to drive with due regard for the safety of all persons.
2. Recognizing that protection of human life is paramount, the responding officer must remember that his objective is to get to the location of the occurrence as soon as possible--safely--without danger to oneself or to others.

B. Officer's response to call

1. Upon arrival at the scene of a call, the responding officer should rapidly evaluate the situation and determine whether additional units are still needed or whether other units responding using emergency lights and siren can be slowed or cancelled.

2. All units responding to robbery and burglary in-progress calls, before coming within hearing distance, shall discontinue the use of the siren and at that time fully comply with all the traffic laws. Before coming within sight of the location, officers shall discontinue the use of the emergency warning lights.

3. In situations requiring silent response, e.g., alarm response, prowler calls, officers will respond as rapidly as possible, obeying all traffic laws and signs.

C. Officer-initiated response:

1. When, in the opinion of the officer, an emergency is imminent or exists, or that activation of emergency warning devices is necessary to protect life or render the necessary police service, the department authorizes an emergency response. Examples include but are not limited to the following:

a. At the scene of any incident where the use of emergency lights constitutes a necessary warning for the safety of life (such as scenes of fires, accidents or disasters).

b. As a visual signal to attract the attention of motorists stopped for traffic violations, or to warn motorists of imminent dangers.

c. Responding to a call, where the officer has previous or additional information which, had the dispatcher known it, would have resulted in the call being dispatched as using emergency lights and siren.

d. Where because of location, distance to be traveled, or traffic conditions, the officer determines that emergency operating conditions are essential in order to provide an appropriate police response.

e. In response to an officer emergency request for assistance.

Minimum Standard: 4

VI. PROCEDURES FOR PURSUITS:

A. In addition to the guidance provided by the Maine Chief's policy, the following departmental policies and procedures apply to pursuits.

1. Officer Responsibilities: The officer's primary responsibility in a pursuit is the safe operation of the vehicle. The officer shall notify the dispatcher of the pursuit, direction of travel, description of the pursued vehicle, and location.

Minimum Standard 6

2. Supervisor's Responsibilities: The patrol supervisor shall monitor the pursuit and respond. The supervisor may end the pursuit at any time that he or she feels circumstances warrant.

Minimum Standard 8

3. Back-up Responsibilities: The first back-up unit to respond shall assist the primary officer in making the arrest. He/she will also assume the responsibility of updating the dispatcher with the location and direction of travel of all vehicles involved, thereby allowing the primary officer to focus attention on the pursuit driving.

Minimum Standard 7

4. Dispatcher Responsibilities:

a. Advise all other units of the pursuit and the information given by the pursuing officer. Assist in directing back-up units to strategic locations

b. Order the police radio cleared of all but emergency traffic.

c. Alert all other nearby law enforcement agencies of the pursuit and information given by pursuing officer when continuing beyond the town limits.

d. Query DMV and NCIC for license data and any warrants.

Minimum Standard: 9

C. Justification for Pursuit: An officer may pursue a vehicle only when he has probable cause to believe the violator has committed or is attempting to commit a serious crime (murder, Class A, B, or C involving the use or threatened use of violence) or when the necessity of immediate apprehension in case of a lesser offense outweighs the level of danger created by the pursuit (e.g., OUI, reckless driving). Officer shall not pursue vehicles for minor traffic violations or violations of town ordinances unless the conditions surrounding the pursuit are conducive to safe operation and management. (section F definition of due regard) Therefore, officers must familiarize themselves with Title 17A of the Maine Criminal Code and appropriate sections of Title 29A.

Minimum Standard: 2 and 4

D. Considerations in Engaging in Pursuit:

1. Officers shall not operate a vehicle at a rate of speed that may cause loss of control. The department expects an officer to end his/her involvement in pursuit whenever the risks to his/her own safety, or the safety of others, outweighs the danger to the community if the suspect is not apprehended.

Minimum Standard: 4

2. The decision to begin, responsibility for continuing, and the choice of method of pursuit rests primarily, if not solely, with the individual officer(s) involved. In deciding, the officer is faced with a dilemma because, although the law does not prevent the officer from using emergency speeds while engaged in pursuit, it does hold him/her criminally and civilly responsible for his/her actions. Therefore, the officer must exercise sound judgement and carefully consider the seriousness of the offense, the possible consequences, and the safety of citizens. Such considerations include:

a. Does the seriousness of the crime warrant a chase at unsafe speed?
b. What is the possibility of apprehension?
c. Will the pursuit take place on residential streets, a business district, school zone or freeway?
d. When a police officer begins pursuit of a fleeing vehicle, they must remember that citizens using public highways do not expect their travel to be interrupted by a high-speed chase or to become involved in an accident as a consequence. Children playing on the side of the street are likely to be drawn towards a police car with the siren and emergency light operating, rather than cautioned away from it.
e. Street and traffic conditions.
f. The weather conditions.
g. Road conditions and lighting (visibility).
h. Balance the pursuit's danger to the public against allowing suspect to escape.
i. The officers individual driving skill.

Minimum Standard: 4

3. Intersections are a particular source of danger. Officers, when approaching an intersection where signal lights or stop signs control the flow of traffic, should:

a. Decelerate and be prepared to apply the brakes.
b. Enter the intersection only when safe, all cross vehicles are aware of the officer's presence, and at a reduced speed.
c. Resume pursuit speed only when safe. When using emergency light, siren and headlamps, the officer is requesting the right of way and DOES NOT ABSOLUTELY HAVE the right to run a red traffic light or stop sign.

E. Rules of Pursuits:

1. An officer who has not successfully attended the Maine Criminal Justice Academy 12-week course will not become actively involved in a high-speed pursuit.

2. An officer may only engage in a termination technique if the officer has received certified training in the specific technique.

3. Forceful techniques that may be used to terminate a pursuit, under emergency conditions, involve potentially serious risk to both those involved in the pursuit and the general public; therefore it is recommended that the officer receive authorization by a supervisor, if possible.

a). an example of a forceful termination technique is the Pursuit Termination Device. A Pursuit Termination Device is designed to deflate tires in a controlled manner. **This device will not be deployed to stop hazardous material vehicles or motorcycles.

Minimum Standard: 11

b. other examples of forceful termination techniques are: road blocks, boxing in, and intentional vehicle contact and shall be defined by the department's Standard Operating Procedures as approved by the chief of police.*** These policies shall also include:

aa. A description of each.

bb. When the technique may be used.

cc, Who must authorize said use.

4. Intra-departmental and Interdepartmental planning, as well as training, may reduce the possibility of injury and destruction of property. A system of communications both within and between departments is essential order to review the management techniques of a high speed pursuit.

Minimum Standard 12

Other examples of termination technique policies inclusions are as follows but are not limited to:

F. Roadblocks: Differing policies may exist from jurisdiction to jurisdiction concerning the establishment of roadblocks in certain situations, and each chief law enforcement officer within any given jurisdiction should consult the chief of each neighboring jurisdiction to clarify these policies prior to an actual event. The chief or his designee will then inform his/her subordinates of the neighboring jurisdictions policy. If possible, regional training is encouraged to review respective policies collectively in order to facilitate management of pursuits.

Minimum Standard: 12.

1. In all cases, the roadblock shall be established so that sufficient visual distance is afforded the alleged suspect or violator so that he/she may recognize the roadblock and stop voluntarily. The blue emergency lights on cruisers shall be activated and other warning devices may also be used where practicable. These precautions will also serve to warn the motoring public of the existence of a roadblock.

2. Officers should be aware of the possibility of an assault by the occupant(s) of the offending vehicle upon approaching or stopping at a roadblock. In all cases, the officer shall allow sufficient time to position his/her own vehicle and leave it, thus taking a position of safety away from the vehicle, together with anyone else who may be in danger. This will be done to try and ensure against bodily harm should an accident or intentional ramming take place by the alleged violator. WHEN SUFFICIENT TIME IS NOT ALLOWED TO POSITION A BLOCK AND TO SEEK A SAFE POSITION AWAY FROM THE BLOCKING VEHICLE, THEN THE BLOCK SHALL NOT BE INITIATED!

3. In heavy traffic areas where establishing a roadblock would be detrimental to the traveling motorist, blocks should only be established if the circumstances are such that it would be more dangerous to the public to allow the wanted vehicle to continue.

4. Firearms- Firearms shall not be discharged by an officer while driving or occupying a vehicle engaged in a high speed pursuit, except to defend himself or others while being fired upon, or when the occupants of the vehicle being pursued have committed a felony in which deadly force was used and the officer has personal knowledge or positive information that the occupants are the actual offenders; and that their immediate apprehension is necessary for public safety and that there are no other reasonable means available to prevent their escape and secure their arrest. In all such cases, every precaution shall be taken to insure the safety of the general public in the vicinity.

5. Whenever the pursuit extends off roadway, as when the fleeing vehicle leaves the roadway and proceeds cross-country, the pursuing officer(s) must carefully consider whether or not the seriousness of the offense outweighs the risk to his/her safety and the potential damage to the police vehicle or private property. When the risks of pursuit exceed the need to capture the offender. THE OFFICER MUST DISCONTINUE PURSUIT.

6. Should the person(s) attempting to avoid apprehension stop the fleeing vehicle and proceed on foot, the officer should stop, give his/her location, and continue efforts to apprehend on foot. The back-up car, or second police vehicle, should be dispatched in close proximity to offer assistance.

7. In all cases a supervisor may direct that the pursuit be ended. If the pursuing officer receives such an order to stop the pursuit, he/she shall do so immediately and acknowledge the order. Also, the pursuing officer(s) must end the pursuit if at any time during the course of the pursuit he loses extended sight of the fleeing vehicle.

Minimum Standard 5

8. In making the decision to erect a roadblock the officer must consider following:

a. The safety of officers.
b. The risk of physical injury to the occupants of the pursued vehicle
c. The protection of citizens and their property.

9. A roadblock must be clearly visible at a distance sufficient to enable approaching vehicles to stop safely. The officer in charge of the roadblock shall notify the dispatcher of its precise location. The department stresses that roadblocks constitute a last resort in stopping a fleeing violent felon.

10. Officers, when accompanied by civilian passengers, shall not pursue. If a civilian is in the police vehicle at the beginning of a pursuit, that officer will turn the pursuit over to another officer, or deposit the civilian at an appropriate, safe location.

11. As a rule no more than two vehicles should be involved in a pursuit. Each unit shall maintain a safe distance especially when passing through intersections. Police vehicles will not pass each other unless the lead vehicle becomes disabled or the lead operator requests relief from pursuit. Whenever possible, each unit involved in the pursuit shall use a different siren-sound selection.

Minimum Standard: 10

12. Should serious bodily injury or death occur as a result of a pursuit, it shall be the responsibility of the chief of police to report this to the Attorney General's office. Any use of deadly force shall also be reported in an expeditious manner to the office of the Attorney General.

Minimum Standard: 14, 16

VII. ABANDONING PURSUIT:

This general order has noted the necessity for a pursuing officer to continually evaluate the risks and goal of a pursuit. Under some conditions, abandoning a pursuit may prove the most intelligent decision the officer can make.

*** **Officers must discontinue pursuit under the following circumstances:**

A. If, in the opinion of the pursuing officer or supervisor, the pursuit creates a clear and unreasonable danger to the officers and other motorists or pedestrians that outweighs the need for immediate apprehension.

B. The suspect(s) have been identified and can be apprehended later and the officer(s) believe that the suspects pose no immediate danger to society.

C. The prevailing traffic, roadway, and environmental conditions render pursuit futile.

D. The pursued vehicle outdistanced the officer, or its location is not known.

E. The pursuing officer knows, or is reasonably certain that the fleeing vehicle is operated by a Juvenile and the offense constitutes a misdemeanor or non-violent felony (the pursuit may stimulate the juvenile to recklessly disregard public safety).

Minimum Standard: 5

NOTE: Discontinuing a pursuit does not mean that the officer cannot follow the vehicle at a safe speed, or remain in the area ready to resume the pursuit if the opportunity presents and circumstances warrant. Officers, when pursuing, should resist the temptation to get into the violator's back seat--figuratively speaking--but instead simply follow the violator and allow him or her to make the driving mistakes. NO OFFICER CAN BE DISCIPLINED FOR DISCONTINUING A PURSUIT.

VIII. Maine Motor Vehicle Pursuit Report

All police pursuits initiated by the MEXICO Police Department shall be reported on a MEXICO department Police Incident form and duplicate information shall be reported on the Maine Motor Vehicle Pursuit Report. The Maine Motor Vehicle Police Pursuit report shall then be forwarded to the office of the Chief of Police for appropriate review and distribution to the Maine State Police Traffic Division.

Minimum Standard: 15

IX. Uniform Act on Fresh Pursuit

According to Title 15 M.R.S.A Section 151-155, officers are authorized to pursue any person across State lines who is believed to have committed any felony "provided such pursuit is conducted without unreasonable delay." Arrests made pursuant to this statute require the officer(s) to physically arraign the apprehended person(s) in the State which capture/arrest is accomplished.

Minimum Standard: 13

A. Officers shall review Maine Law Enforcement Officer's Manual Chapters 21 and 22 regularly and have a working knowledge of its content.

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: COMPLAINTS AGAINST POLICE PERSONNEL

EFFECTIVE DATE: Dec. 11, 1995 REVIEW DATE:

AMENDS/SUPERSEDES: Policy Dated 10/12/90

APPROVED James Theriault
CHIEF OF POLICE

INDEX WORDS: complaint; internal investigations; medical/ laboratory examinations of employees; lineups; photographs of employees ; financial disclosure statements; polygraph; due process; board of inquiry; criminal misconduct

I. POLICY

The image of the department depends on the personal integrity and discipline of all departmental employees. To a large degree, the public image of this department is determined by the professional response of the department to allegations of misconduct against it or its employees. The department must competently and professionally investigate all allegations of misfeasance, malfeasance, nonfeasance by employees and complaints bearing on the department's response to community needs.

MINIMUM STANDARDS: 1 AND 3

II. PURPOSE

To describe procedures for making complaints against department personnel, for investigating complaints, and to list and define the dispositions of complaints.

III. PROCEDURES - GENERAL

A. The department encourages citizens to bring forward legitimate grievances regarding misconduct by employees. Department members shall receive complaints courteously and shall handle them efficiently. All officers are obligated to explain to inquiring citizens the complaint procedures.

MINIMUM STANDARD : 2

B. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The employee must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In such situations, words, actions, and events frequently result in misunderstanding and confusion. It is to the advantage of all employees to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of police work.

C. A copy of "How To Make A Complaint" will be posted in the public area of the police department, provided to media representatives, and may be given to any citizen requesting information on how to make a complaint against the department or an employee of the department. A copy of "How To Make a Complaint," is found in appendix # 1 to this order.

D. Responsibility for handling complaints:

1. As a rule, complaints regarding law enforcement operations will be handled through the chain of command. Complaints involving how police service is provided or a failure to provide service or improper attitudes or behavior will normally be investigated and handled by the investigator or by the chief of police. The chief of police may ask an investigator from another agency, Office of Attorney General or the Maine State Police to undertake the investigation.

Minimum Standards: 5 and 7

2. Complaints alleging improper police conduct, brutality, or misconduct involving several personnel or supervisory personnel will be handled as an internal affairs matter, and shall be investigated by an outside agency upon request of the chief of police.

Minimum Standards: 4, 6, and 7

3. The Chief of Police will be notified of all complaints by the deputy chief of police or any supervisors receiving a complaint.

Minimum Standard: 8

E. Receipt of complaints:

1. Complaints, regardless of nature, can be lodged in person, by mail, or by phone at any time. As part of the follow-up investigative activity, persons making complaints by mail or phone will normally be interviewed and a written, signed complaint prepared. Anonymous complaints will be followed up to the extent possible.
2. Every effort shall be made to facilitate the convenient, courteous and prompt receipt and processing of citizen complaints. An employee of the department who interferes with, discourages or delays the making of such complaints shall be subject to disciplinary action.
3. Normally, a citizen with a complaint will be referred to the chief of police who will assist the citizen in recording pertinent information. The chief of police will, if appropriate, conduct a preliminary investigation.
4. If the sergeant or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or is apparently suffering from a mental disorder, or displays any other trait or condition bearing on his credibility, he shall note such conditions on the reverse side of the complaint form. Any visible marks or injuries relative to the allegation shall be noted and photographed.
   a. Prisoners or arrestees may also make complaints, although circumstances may require a department representative to meet the complainant at a jail or prison for an interview. If appropriate, the police representative will have photographs taken of prisoners' injuries.
5. A department member receiving a citizen complaint through a U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the chief of police, who will determine investigative responsibility.

6. Complaints received by telephone by dispatchers or other employees will be courteously and promptly referred to the chief of police. The dispatcher or employee shall record the name and telephone number of the complainant and state that the chief of police or, if unavailable, sergeant shall call back as soon as practicable.

7. Complaints will not normally be accepted more than thirty days after the alleged incident, with the following exceptions:

   a. When the act complained of is a criminal violation in which case the criminal statute of limitations will prevail.

   b. When the complaining person can show good cause for not making the complaint earlier.

8. The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.

Minimum Standard: 2

F. Disposition of complaints:

The chief of police shall:

1. Notify the complainant, in writing, as soon as practicable, that the department acknowledges receipt of the complaint, that the complaint is under investigation, that the investigation will be completed within thirty days, and that the complaint will be advised of the outcome. If the investigation exceeds thirty days, the chief of police shall write the complainant a letter explaining the circumstances of the delay.

Minimum Standards: 10, 11, and 12

2. Maintain in a secure area a record of all complaints against the department and its employees and protect the confidentiality in accordance with Title 5, paragraph 7070A. Complaint files will be separate from personnel files.

Minimum Standard: 13

3. Take appropriate disciplinary action following the investigation.

G. Disposition of Serious Complaint:

1. Serious complaints allege violations of the law or gross negligence in violating or failing to enforce civil rights of citizens. The term "serious complaint," in this manual, is synonymous with "internal investigation." Internal investigations examine alleged brutality, gross excesses of legal authority, or allegations, involving supervisory personnel or multiple police personnel.

2. In such cases, the deputy chief of police shall:

   a. Directly investigate such allegations, except for violations of law or civil rights where the deputy chief of police, may turn the investigation over to the appropriate law enforcement agency.

Minimum Standards: 6 and 7

   b. Ensure that the investigation is conducted in accordance with the union contract, contemporary legal and professional personnel administration procedural standards.

Minimum Standard: 9

c. The chief of police will maintain close liaison with the District Attorney or the Attorney General's Officer in investigating alleged criminal conduct. Where liability is at issue, the chief shall similarly maintain contact with the town attorney.

Minimum Standard 7

IV. PROCEDURES - Investigative

Two types of investigations may take place: administrative or criminal. Different rules govern interviews of employees in each case.

A. Interview for administrative purposes: If the chief of police wishes to compel an employee to answer questions directly related to his or her official duties and the chief is willing to forego the use of such answers in a criminal prosecution, the chief of police or another interviewer shall advise the employee that:

1. The purpose of the interview is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceeding resulting in reprimand, demotion, suspension, or dismissal.
2. All questions specifically related to employment must be fully and truthfully answered. Refusal to answer may result in disciplinary action.
3. No answers given nor any information obtained by reason of such statements may be admissible against the employee in any criminal proceeding. Read to the employee the following:

"I wish to advise you that you are being questioned as part of an official investigation of the police department. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the Constitution of this state and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges which could result in your dismissal from the police department. If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in relation to subsequent departmental charges."

4. In an interview for administrative purpose, no Miranda rights are required. Further, the foregoing rules are inconsistent with Miranda in that employees statements cannot be used as evidence. Further, as the interview does not serve criminal prosecution, the employee has no Sixth Amendment right to counsel.
   a. The governing case is Garrity v. New Jersey, 385 U.S. 483. 87 S. Ct. 616 (1967).

B. Interviews for criminal investigative purposes: If the chief of police believes that criminal prosecution is a possibility and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, he or another interviewer shall:

1. Give the employee Miranda rights.
2. Advise the employee that if he asserts his right not to answer questions, no adverse administrative action will be taken based upon the refusal.
   a. If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceedings.
   b. Note that the Miranda admonition includes the provision that a lawyer may be present at an interview. Although technically the employee has no right to counsel until the employee has been criminally charged or his or her freedom of action has been deprived, the department wishes the employee to have the option. The department wishes no possibility to arise in which its actions might be construed coercive.
   c. The governing case is Gardner v. Broderick, 392 U.S. 273, 88 S.Ct. 1913, 1916 (1968). The case made clear that a public employee may not be fired for asserting his Fifth Amendment right not to incriminate himself.
3. All investigations shall be conducted without unreasonable delay. An employee shall be advised of the final outcome of the investigation in writing within thirty (30) calendar days of the interview. If for any reason the investigation cannot be conducted within a thirty day time period, the employee being investigated shall be given an explanation of the delay and be advised of the outcome within ten (10) calendar days of the completion of the investigation.

Minimum Standards: 10 and 12

V. INVESTIGATIVE TOOLS AND RESOURCES:

In addition to interviews of the employee and witnesses, the chief of police may require other activities in support of a complaint investigation or internal investigation, including:

A. Medical and Laboratory Examination:

All such tests must comply with Chapter 7, subchapter III-A, Title 26 MRSA, as amended from time to time. The chief of police or officer in authority may, based on his observation, require a department employee to submit to a test for alcohol or drug use while on duty. The results may be used in a disciplinary hearing. Refusal to submit to the examination will be grounds for disciplinary action and may result in the employee's dismissal.

1. If the employee is believed to be under the influence of alcohol, a licensed breathalyzer operator will administer the test. The chief of police or officer in authority will witness the test and will be required to sign the report.
2. If the employee has a reading of .01 or higher, or there is other competent evidence of impaired abilities to perform duties, the officer shall be relieved of duty by the chief of police or officer in authority.

3. If the employee is believed to be under the influence of self-administered drugs, he may be compelled to submit to a blood and/or urine test. The test shall be administered under medical supervision where hygienic safeguards are met. The sample will be handled using the same safeguards as evidence in a criminal process.
4. If the test shows positive results, or there is other competent evidence of impaired abilities to perform duties, the officer shall be relieved of duty as soon as possible by the chief of police or other officers in authority.
5. If an employee refuses to submit to a test, (alcohol or drugs) then the chief of police or other officer in authority will immediately relieve the employee from duty for failure to cooperate in an administrative investigation.

B. Photograph and Lineup Identification Procedures:

Officers may be required to stand in a lineup for viewing by citizens for the purpose of identifying an employee accused of misconduct. Refusal to stand in a properly conducted lineup is grounds for disciplinary action and could result in dismissal.

1. A photo identification book of department employees may be maintained for the purpose of identification by citizens of an employee accused of misconduct. Photographs of employees for the identification book will be required by the department and will be used as it narrowly relates to the employee's job.
2. Photographs or videotape pictures of employees, whether knowingly or unknowingly by the employee, may be taken for the purpose of internal investigations when it relates to the employee's Job and the employee is suspected of misconduct.

C. Financial Disclosure Statements:

An employee may be compelled to make financial disclosure statements when it is directly and narrowly related to allegations of misconduct involving any unlawful financial gain. Any evidence gained during the investigation of an administrative matter cannot be used in any criminal proceeding.

Use of polygraph examinations in internal investigations shall be in accordance with the departmental policy regarding its use (see following paragraph).

D. Polygraph:

1. Policy: All police personnel, effective with the promulgation of this policy, shall be required to submit to a polygraph when ordered to do so by the chief of police, or by another superior officer with the authorization of the police chief.
2. The police chief or his designee may order employee to take a polygraph when the employee is charged with a Category III offense.
3. The results of the polygraph examination will not be used as the sole basis for disciplinary action against any employee.
4. Any polygraph examination administered under the provisions of this policy and procedure shall be administered by a licensed examiner from another law enforcement agency. No police employee shall be used to administer an examination to another police employee.

5. Refusal to submit to a polygraph examination or to answer all questions pertaining to the charges in the polygraph examination shall be grounds for disciplinary action and may result in dismissal from the department.

6. In order to comply with federal (privilege against self-incrimination) law, the following information must be provided to the officer asked to submit to such examination:

a. The nature of the inquiry, the name and rank of the investigating officer, and the name and rank of any person present during the examination.

b. That his answers will not be used to prosecute him.

c. That he may refuse to take the polygraph examination or to answer any questions, however such refusal shall be grounds for disciplinary action which may include dismissal.

d. That answers given during the polygraph examination do not constitute a waiver of the privilege against self-incrimination as it relates to criminal matters.

e. A Polygraph Examination Acknowledgment of Rights form must be initialed and signed in the spaces indicated (see appendix #2 to this instruction). Refusal to do so shall be grounds for disciplinary action which may result in dismissal.

7. The declaration is here made that the intent of all of the above is that any person who refuses to submit to a polygraph examination or refuses to answer any questions pertaining to the charges in such an examination may be terminated from employment.

VI. ADJUDICATION OF COMPLAINTS:

A. The chief of police will classify completed internal affairs investigations as:

1. Unfounded - no truth to allegations.
2. Exonerated - allegations true, but result of adherence to proper and appropriate police procedures and techniques.
3. Not sustained - unable to verify the truth of the matters under investigation.
4. Sustained - allegations true.
5. Completed investigations classified as unfounded, exonerated or not sustained will be maintained in internal affairs files in the chief's office. Sustained complaints will be filed in the individual employee's department personnel file with a copy in the internal affairs files.

B. Disciplinary records: For Category I offenses shall be purged two years after, if no further offenses in any category have occurred. Category II offense records shall be similarly purged after three years. Category III records are permanently retained.

C. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of injury to the victim. It shall be commensurate with the circumstances surrounding the incident and in consideration of the officer's service record and prior sustained complaints. See Rules and Regulations 1-11 (Employee Discipline) for details.

VII. DUE PROCESS:

A. The Fourteenth Amendment to the Constitution provides that a citizen may not be deprived of "life, liberty, or property, without due process of law." Public employees have a limited property interest in continued employment sufficient to require due process in any administrative proceedings that might result in suspension or dismissal.

B. The department seeks to observe due process of law in the philosophy of the 14th Amendment in any disciplinary proceeding. Nevertheless, the foregoing rules circumscribe when legal counsel may or may not be used during interviews of employees suspected of misconduct.

C. Despite an employee's limited property interest in his job, as described in paragraph A, the simple fact that an employee has held a job for years does not entitle him or her to keep it.

D. The department recognizes that an employee, though dismissed or suspended, may have a liberty interest to enjoy future employment elsewhere and, if suspended or dismissed, should have an opportunity to set forth his or her point of view for name-clearing purposes. In view of this interest, the department affords an employee a hearing in accordance with the provisions of Rules and Regulations Number 1-11 (Employee Discipline) and union contract.

Minimum Standard: 9

VIII. BOARD OF INQUIRY:

A. The chief of police may invoke a board of inquiry at any time for any disciplinary purpose. The board will serve to review facts or information to resolve an allegation of misconduct. A board will always be convened in the event of a police shooting, death or serious injury of an officer or citizen killed or injured incident to police action.

1. A board of inquiry shall consist of at least three people, including the town manager, chief of police (unless involved in the incident under scrutiny), plus a law enforcement officer of the rank of sergeant or above from a nearby agency or Maine State Police.
2. The board shall recommend a decision to the chief of police, or if the chief is involved in the incident, to the town manager.
3. The board's proceedings will not be recorded and transcribed, however, a board chairman shall be selected from among the board members who shall write, in a memorandum to file, a summary of the proceedings, names of board members, and the board's recommendations.

Minimum Standard: 12

APPENDIX # 1

RULES AND REGULATION: Complaints Against Police Personnel

HOW TO MAKE A COMPLAINT

1. If you wish to make a complaint about the actions of a police officer or about any aspect of police operations, please:

   a. Come to the department and tell any employee that you want to make a complaint; or

   b. Call the department or the town manager's office and tell the person answering the phone that you want to make a complaint; or

   c. Write your complaint on the standard Town Of Mexico complaint form, which can be obtained at the Town Office.

2. A supervisory officer will assist you in filling out a report of complaint against police personnel form. This form asks you to identify yourself and then to give specific details about your complaint.

3. Your complaint will then be investigated. You may be contacted and asked additional questions about your complaint.

4. If it is going to take a long time to investigate your complaint, you will receive a letter telling you approximately when you may expect a reply.

5. When your complaint has been investigated, the chief of police will review the investigation and will write you a letter explaining what has been found out about the matter.

Appendix #2
Polygraph Examination Acknowledgment of Rights

I._____, have been ordered by

_____ to submit to a polygraph

examination as a condition of employment in connection with the investigation of

_____

_____

_____

I understand that my answers to such examination, as they relate to the above referenced investigation, will not be used to prosecute me._____ (initial)

I understand my refusal to submit to such examination and/or to answer questions pursuant to such examination shall lead to disciplinary action which may include termination of my employment. _____ (initial)

I understand that my responses do not constitute a waiver of my privilege against self-incrimination as it relates to criminal matters _____ (initial)

I understand my refusal to sign this form shall lead to disciplinary action which may include termination of my employment. _____ (initial)

_____ _____
Employee Signature Witness Signature

_____ _____
(Date) (Date)

Certificate To Be Completed In Event Of Refusal To Sign Form

I, _____, hereby certify this form
(Name and Rank)

was presented to _____ on this date
(Name and Rank)

in connection with the above referenced investigation, that the contents of the form were made known to him/her and that failure to sign the form was grounds for disciplinary action, including dismissal from employment, said _____ refused in my presence to sign this form.
(Name)

_____ _____
(Employee Signature) (Witness Signature)

_____ _____
(Date) (Date)

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: USE OF FORCE

EFFECTIVE DATE: Dec. 11, 1995

REVIEW DATE:

AMENDS/SUPERSEDES Policy Dated 1/24/90

APPROVED: James Thenault
CHIEF OF POLICE

INDEX WORDS: force, use of; deadly force; non-deadly force; excessive; weapons; off-duty; impact weapons; disabling pepper agents; shotguns; firearms; force; prohibited acts; reporting use of force; vehicles; firing at or from; choke holds; weapons qualification; post shooting trauma; and weapons.

I. POLICY:

Officers are confronted daily with situations requiring the use of force to effect an arrest or ensure public safety. The degree of force used depends on what the officer perceives as reasonable and necessary under the circumstances at the time he/she decides to use force. Except for deadly force, the application of any degree of force is only justified when the officer reasonably believes that it is necessary.

A. To prevent the escape from custody, make an arrest or an investigative detention of a person the officer believes has committed a crime; or
B. To defend himself or herself or another from what the officer believes is the use of force while trying to arrest another, prevent his or her escape, or otherwise lawfully take the person into custody.

Facts or circumstances unknown to the officer shall not be considered in later determining whether the force was justified. The department expects officers to observe the following two guidelines in all applications of force:

A. Employ the minimum force reasonable necessary to accomplish a legal purpose.
B. Officers may resort to more severe methods of force to overcome either increasing resistance or an increasing dangerous threat to public safety.

The escalation in the use of force typically follows a pattern: officer presence, verbal commands, compliance techniques(control holds), disabling pepper agents, impact weapons, and finally deadly force. Officers must understand how to recognize increasing or decreasing levels of threat and respond appropriately. The department expects that officers will only employ the minimum force necessary to accomplish a legal purpose, as outlined in M.R.S.A. 17-A, section 107 and Chapter 2 of the MAINE LAW ENFORCEMENT OFFICER'S MANUAL (L.E.O.M.). The objective of the use of any force is to overcome the suspect's resistance

to an officer's lawful purpose. Officers shall avoid unnecessary or excessive applications of force. Officers shall not unreasonably or unnecessarily endanger themselves or the public when applying this policy.

MINIMUM STANDARDS : 1 AND 2

II. PURPOSE:

To establish guidelines governing the use of force and its limitations, and to clearly describe prohibited activities.

III. DEFINITIONS:

A. Deadly Force: Physical force which a person uses with the intent of causing, or which he knows to create a substantial risk of causing, death or serious bodily injury. Intentionally or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force. Vehicle intentionally ramming vehicles and roadblocks in certain circumstances also constitutes deadly force.

Minimum Standard: 3

B. Non-deadly Force: Any physical force which is not deadly force.

Minimum Standard: 3

C. Firearms: Any weapon whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun, or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm.

D. Reasonable Belief: When facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

E. Serious Bodily Injury: Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function or any bodily member or organ, or extended convalescence necessary for recovery of physical health.

F. Excessive Force: Force is excessive when its application is inappropriate to the circumstances, which may result in serious physical injury or death to a suspect. The U.S.. Supreme Court, in Graham V. Connor, 490 U.S. 386, 104 L Ed 2d 443, 109 S Ct. 1865 (87-6571), recently set forth guidelines for determining whether force has been excessively applied: the primary concern is REASONABLENESS in its application, as judged by the on-scene officer. Based on the reasonableness standard, the following considerations contribute to a determination of excessive force:

1. The severity of the crime.
2. Nature and extent of the threat posed by the suspect.
3. The degree to which the suspect resists arrest or detention.
4. Any attempts by the suspect to evade arrest by flight.

In evaluating the reasonable application of force, officers must consider factors such as: age, size, strength, skill level with department weapons, state of health, and the number of officer opposing the number of suspects.

G. Disabling Pepper Agents: For purposes of this General Order, Disabling Pepper Agents are OC, CN, or CS products or a combination thereof.

IV. PROCEDURES FOR APPLICATION OF NON-DEADLY FORCE:

The department trains officers in the use of force continuum, emphasizing the recognition of and response to increasing levels of threat. Most instances in which force is applied are non-deadly. Officers shall assess the incident to determine which techniques will best defuse the situation and bring it under control.

Officers should access alternatives in the continuum of force and should only use the force necessary to effect an arrest, defend themselves, or a third party only when confronted, from what they believe is an imminent attack. The alternatives in the continuum of force generally follows: officer presence, verbal commands, compliance techniques, disabling pepper agents, impact weapons, and then deadly force.

A. Officer Presence: Officers in uniform or officers identifying themselves as police officer are the lowest form of force used in the continuum of force.

B. Verbal Commands: Verbal commands refer to the manner in which the officer speaks to a person, which of itself can effectively manage a situation. Verbal commands include advice, persuasion, admonitions, or orders. The volume and tone of the officers speech may also contribute to control without having to resort to another method of force. The department urges the use of verbal commands without the use of profanity, disrespectful, or argumentative manner.

C. Compliance Techniques: At times, uncooperative people who refuse to be taken into custody may only respond to physical force such as: strength, leverage, take-downs, control holds, or come-along with sufficient force to make the lawful arrest without aggravating tension or a suspect's combativeness. The object of this level of force is to gain control and enforce the suspect's compliance while minimizing the risk of injury to officers, bystanders, or the person being placed in custody. Where lesser levels of force appear ineffective, officers may employ hands, fists, feet, knees, and so on in striking an adversary according to methods sanctioned through training.

D. Disabling Pepper Agents:

1. When physical force may be insufficient, officers may need to resort to the use of disabling pepper agents in an act of self defense, defense of a third person, to subdue a violently resisting subject, or to deter persons engaged in riotous conduct.
2. Officers shall be properly trained in the use of disabling pepper agent before being authorized to carry and use.
3. It is preferred that disabling pepper agents not be used if resistance is minor and not hazardous or if physical compliance techniques would reasonably achieve the same.
4. Disabling pepper agents will not be used to threaten, to elicit information or persuade people to comply with orders, nor will it be used on people who are handcuffed, secured and properly in custody.
5. Officers are responsible for providing fresh air, water for flushing the eyes of any person sprayed with disabling pepper agents. This will be done as soon as possible after the person is in proper custody.

6. Officers are to monitor the health of any person sprayed with disabling pepper agent. All affects are temporary and usually disappear within forty-five minutes. Medical attention will be provided if needed should the person show any ill effects or show any reaction to being sprayed with disabling pepper agents. Officers who have sprayed a person with disabling pepper agents shall immediately notify their supervisor and submit a written report of the incident to the chief of police prior to the end of their shift.

C. Impact Weapons:

1. Officers may have to rely an impact weapon to subdue a violently resisting subject. Large muscle groups are recognized as the only acceptable target areas for strikes. Blows delivered to the head could prove fatal and are to be avoided unless deadly force is authorized.

2. Circumstances may warrant a more substantial use of impact weapons when violent and dangerous subjects do not respond to lesser methods. The impact weapon may be used as a defensive weapon or crowd control tool.

3. An impact weapon should not be used to strike handcuffed individuals, nor to threaten or intimidate people.

4. Impact weapons may be used to assist with control holds and vehicle extrication's.

Minimum Standard: 4

V. DEADLY FORCE:

A. Firearms - general:

1. The use of a firearm, or other deadly force, is justified only when used:

a:. To defend himself or a third person from what he reasonably believes is the imminent use of deadly force or;

b. To effect an arrest or prevent the escape from arrest of a person when the law enforcement officer reasonably believes that the person has committed a crime involving the use or threatened use of deadly force, is using a dangerous weapon in attempting to escape or otherwise indicates that the person is likely to endanger seriously human life or to inflict serious bodily injury unless apprehended without delay; AND

(i) The law enforcement officer has made reasonable efforts to advise the person that the officer is a Law Enforcement officer attempting to effect an arrest or prevent the escape from arrest and the officer has reasonable grounds to believe that the person is aware of this advice, OR

(ii) The law enforcement officer reasonably believes that the person to be arrested otherwise knows that officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest.

In Tennessee v. Garner, 105 S.Ct. 1694 (1985), the Supreme Court ruled that the use of deadly force to prevent the escape of a suspected criminal is unconstitutional if the suspect appears to be unarmed and not dangerous.

c. To kill seriously injured or dangerous animals when no other disposition is reasonably practical. A supervisors approval should be sought when possible.

d. In routine firearms training or practice at an approved range.

2. All due care shall be used to prevent injury to citizens. Warning shots WILL NOT be fired for any reason. The use of deadly force to apprehend a misdemeanor is not justifiable unless the situation described above confronts the officer.

3. Shooting at or from moving vehicles is authorized only when:

a. Any occupant of the other vehicle is using, or threatening to use, deadly force by a means other than the vehicle or

b. A vehicle is operated in a manner deliberately intended to strike an officer or a citizen; and all other reasonable means of defense have been exhausted (or are not present), which includes moving out of the path of the vehicle, and the safety of innocent persons, would not be unduly jeopardize by the officers action.

4. Other, non-deadly force may be used to overcome opposing force and is justified when the officer uses only that amount of force necessary to effect and maintain the arrest.

B. Specialty Weapons - Shotgun or Rifle:

1. Due to its wide shot dispersion, the shotgun should only be used when a possibility exists that the officer will be dealing with an armed suspect, e.g., armed robbery in progress, searching for armed suspects, answering calls when complainant has indicated a person is armed. Shotguns may also be used for high risk motor vehicle stops, building searches, or other instances where deadly force is being used or threatened to be used.

2. The chief of police may approve the use of shotguns on raids and stakeouts when he/she believes that threat to human life exists.

3. Shotguns will be carried locked in patrol units.

4. Before beginning a tour of duty or immediately thereafter, officers will inspect the shotgun assigned to the patrol car, if so equipped.

5. During regular firearms qualification, each officer will be required to fire a designated number of rounds with the shotgun and demonstrate proficiency with it.

6. The range officer or armorer will develop a shotgun maintenance schedule. They will clean and inspect shotguns according to schedule.

7. The general rules for the use of firearms above apply to shotguns.

8. Rifles will only be used if departmentally approved and officers are trained in the use of their use.

C. Vehicles: Intentional Ramming and/or Roadblocks in certain circumstances are considered deadly force (See High Speed Pursuit Policy).

Minimum Standard: 7

VI. LIMITATIONS ON FORCE:

The following acts associated with the use of force are prohibited:

A. Firing into crowds.

B. Firing a warning shot.

C. Firing at or from a moving vehicle, except as explained under section V, Paragraph A, subparagraph 3 above.

D. Firing into a building or through a door when the person fired at is not clearly visible unless officers are being fired upon from such building or through such door.

E. Firing at a suspect when lesser force could be used and the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force, or when there is any substantial danger to innocent bystander. (When in doubt, don't shoot.)

F. Use of Streamlights or Maglights or other flashlights or as impact weapons. An officer may use a flashlight or other object designed for a use other then as a weapon ONLY to defend himself or another from imminent physical injury or death and then ONLY if departmentally sanctioned methods are not available or are impractical. The use of a flashlight under such circumstances may be deemed an application of deadly force.

G. The carrying or use of a back-up firearm unless approved by the chief of police.

H. The carrying or use of saps, blackjacks, or slapjacks.

I. Use of deadly force against unarmed, non-dangerous fleeing felons, fleeing misdemeanants, or traffic offenders.

J. Any use of force not reasonably necessary in the light of the circumstances confronting the officer.

Minimum Standards: 4 and 7

VII. WEAPONS:

A. Duty Weapon: While on-duty, an officer shall carry a department issued or approved weapon. The department shall issue ammunition for the weapon.

1. Any officer who wishes to carry a personally owned weapon on-duty must request permission, in writing, from the chief of police. Weapons must be inspected and approved by the range instructor/armorer. In addition, the weapon must fire, department issued or approved ammunition and the officer must qualify with the weapon as well as with department issued weapons.

2. The chief of police and/or range officer shall maintain a record of all weapons used by officers either on or off-duty. The record shall contain: weapon description, ammunition type issued, date of issue, and information pertaining to qualifications. The Department Firearms Officer shall annually review the record to ensure that they are up to date.

B. Off-Duty Weapons: Officers are neither encouraged nor discouraged, but not required to carry a handgun when off-duty. An officer who elects not to carry a handgun while off-duty shall not be subject to disciplinary action if an occasion should arise in which he could have taken police action if he were armed. (Exception)

1. Off-duty officers while operating a department vehicle shall be armed with an approved weapon.
2. Officers who carry off-duty weapons must understand that in some social situations (e.g., sports) the carrying of a firearm would be inappropriate.
3. Officers who have consumed alcoholic beverages shall not carry an "off-duty" weapon under any circumstances.
4. All officers will submit off-duty weapons to the range instructor for inspection before carrying them.

C. Qualification: No officer shall carry or use any firearm, disabling pepper agents, or impact weapon unless he has both received training in the use of he weapon and demonstrated proficiency in its use.

VIII. REPORTING USE OF FORCE:

A. Non deadly force includes the use of physical force with any injury to or resistance of a suspect or use of disabling pepper agents, restraint techniques, and impact weapons. Non deadly force does, not include officer presence or verbal commands, for reporting purposes.

1. The officer shall immediately notify their immediate supervisor of any, use of deadly force.
2. The officer shall immediately notify their immediate supervisor of any use of nondeadly force.
3. In addition to required arrest and incident reports, the officer will submit a memorandum to the chief of police describing the incident, substantiating the force used, and any medical services rendered including dispatching of injured animals. This memorandum is for both Deadly and Non deadly force and shall be completed prior to going off-duty. It should be noted that the dispatching of an injured animal does not constitute deadly force, but a memorandum to the chief is required because of the use of a firearm.
4. Each incident concerning the use of force or dispatching of injured animals will be administratively reviewed by the chief of police or his designee. Appropriate action shall be taken. The Chief of Police shall send the appropriate information to the appropriate state agencies.
5. Depending on the seriousness of the injury, the chief of police shall notify the town manager and, in case of death, the AG's Office and the Medical Examiner.

Minimum Standards: 5. 6. 8. 9. 10. 11

B. Assignment: Pending administrative review, any officer who has taken the life of another person will be removed from line duty assignment. This action protects both the officers and the communities interest until the situation is resolved, and shall not be considered punitive.

C. Review: All reported uses of force will be reviewed by the chief of police to determine whether:

1. Departmental orders were violated.
2. Relevant departmental policy was clearly understandable and effective to cover the situation.
3. Departmental training was adequate.

The chief of police may convene a board of inquiry to examine an incident in which force was applied. The board of inquiry will also ascertain if training and policy needs are deficient and make recommendations for correction these needs.

D. Internal Investigations: Internal investigations of serious applications of force (usually of compliance techniques and more severe methods) shall be of two types conducted simultaneously; FIRST, an administrative investigation to determine whether department standards were followed; SECOND, a criminal one to detect lawbreaking. A criminal investigation shall be discontinued whenever the department is satisfied that no misconduct occurred. Dual investigations shall be conducted on all shootings and uses of deadly force. During an internal investigation, the department will do all within its power to avoid placement of a stigma on the officer who shoots in the performance of duty.

Minimum Standards: 6, 9, 12

In all instances involving the use of deadly force, whether a death occurs or not, the Attorney Generals protocol will be followed. This includes shootings (except dispatches of injured animals), ramming and roadblocks in certain circumstances.

E. Psychological Services: Where a police officer's use of force causes death, the officer shall be placed on administrative leave after completing all intern investigative requirements, and until it is determined by a mental health professional that the police officer is ready to return to duty. These psychological follow-ups of postshooting trauma will be directed by the chief of police whenever deemed appropriate.

Minimum Standards: 10, 12

F. NOTE: The use of a trade name such as capstun for a pepper spray does not imply endorsement of a product. Rather, this policy order refers to a trade name to convey the degree of specificity required by written policy as an agency. This comment applies as well to a specific type of impact weapons I.E., PR24,
or Asp, Batons, Kubatons or Nightsticks.

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: DOMESTIC ABUSE

EFFECTIVE DATE: Dec. 11, 1995

REVIEW DATE:

AMENDS/SUPERSEDES: Policy Dated 10/11/90

APPROVED James Theriault
CHIEF OF POLICE

INDEX WORDS: domestic violance; abuse; family/household member; arrest decisions; child victims and dependents; definitions; dispatch responsibilities; effecting the arrest; elderly victims; on scene assistance to victims; patrol responsibilities; policy; written reports and data collection.

I. POLICY

Domestic abuse is a crime that differs from other crimes because of the intimate relationship between the victim and the accused. nNotwithstanding that difference, police shall respond to domestic abuse as they respond to any crime. In certain situations, police must arrest and in all others, police should arrest and pursue criminal remedies appropriate to the crime that the police have probable cause to believe the accused has committed. In recognition of the difference between domestic abuse and other crimes, however, police also should provide victims with special assistance, including efforts to ensure that victims are informed of services available.

MINIMUM STANDARD 1

II. PURPOSES:

A. The purpose of the Maine Domestic Violance Statute is to protect victims of domestic violance and their families or household members by allowing the victims to obtain expeditious and effective protection against furthur abuse; by reducing the abuser's access to the victim; by reducing incidents of abuse and fear of retaliation, loss of a child or loss of financial support; and by collecting data in the effort to develop a comprehensive analysis of the incidence and causes of that violance.

B. Other purposes and goals of this order are:

1. To reduce the incidence and severity of domestic abuse by establishing arrest and prosecution, rather than mediation, as the preferred means of police response to domestic violance.

2. To afford maximum protection and support victims of domestic abuse by communicating through the Department's and officer's behavior to the victim and the abuser that domestic abuse is a serious crime, and the laws against it will be vigorously enforced by the community. Furthur support will be provided through coordinated efforts between law enforcement and member agencies of the Maine Coalition for Family Crisis Services.

3. To ensure that law enforcement services are as available

in domestic violance cases as they are in other criminal cases.

4. To reaffirm the police officer's authority and responsibility to make arrest decisions in accordance with established probable cause standards.

5. To promote officer safety by ensuring that officers are as fully prepared as possible to respond to domestic calls.

6. To help reduce police resources consumed in responding to domestic violance by reducing the number of police interventions required for any particular household.

III. DEFINITIONS:

A. Domestic Abuse: The occurrence of the following acts between family or household members or by a family or household member upon a minor child of a family or household member:

1. Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Title 17-A, chapter 11, except that contact as described in Title 17-A, section 106, subsection 1, is excluded from this definition.
2. Attempting to place or placing another in fear of bodily injury through any course of conduct including, but not limited to, threatening, harassing or tormenting behavior.
3. Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain from conduct in which the person has a right to engage.
4. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by: removing that person from that person's residence, place of business or school; moving that person a substantial distance from the vicinity where that person was found; or confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved.
5. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed.

B. Family or household members: Spouses or former spouses, individuals presently or formerly living together as spouses, natural parents of the same child, or adult household members related by consanguinity or affinity (blood or marriage) or individuals presently or formerly living together as sexual partners. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."

Minimum Standard: 3

C. Adults: Any person 18 years of age or older or any person under 18 years of age who is emancipated from the legal control of his parents or guardian.

IV. PROCEDURES:

A. General: The appropriate laws governing DOMESTIC ABUSE can be found in 15 M.R.S.A. §§17-A M.R.S.A. §15 and 19 M.R.S.A. §§761-A et seq. The Maine Law Enforcement Officer's Manual, also, provides detailed analysis and guidelines for law enforcement officers in Chapter 26. Officers should have a working knowledge of the information in these two references.

Minimum Standard: 2

B. Dispatch (communication center) Responsibilities:

1. Dispatchers should give domestic calls the highest priority classification. Whenever possible, the dispatcher should assign a back-up unit.
2. The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding officer as much of the following information, in the following order of importance, as time and the exigencies of the reported incident allow:

(a) The nature of the incident;
(b) The address of the incident, including the department number or the name of the business, as appropriate;
(c) A telephone number where the caller can be called back;
(d) Whether weapons are involved;
(e) Whether an ambulance is needed;
(f) Whether the suspect is present and, if not, the suspect's description, direction of flight, and mode of travel; and
(g) Whether children are at the scene.

3. If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible and should tell the caller that help is on the way and when the caller can expect the police to arrive.
4. If the caller is a witness to a domestic incident in progress, the dispatcher should keep the caller on the telephone and should relay ongoing information provided by the caller to the responding officer.
5. The dispatcher should consult police department records that indicate whether the parties involved in the incident have been involved previously in domestic incidents or that indicate whether there is a protection from abuse order involving the parties in effect, as soon as possible and radio any relevant information to the responding officer.

Minimum Standard 4

C. Patrol Responsibilities:

1. The highest classifications of priority will be given to domestic calls. Officers will respond immediately and coordinate their approach if more than one unit responds. Obtain all available information from the dispatcher before arriving at the scene.
2. Initial Police Officer Response
   (a) Approaching the scene.
      (i) The officer should avoid the use of sirens and emergency lights in the vicinity of the scene of the incident. Sirens and lights should be employed only when speed is essential. Police should be alert to and note persons encountered while approaching the scene. If possible, an officer should question any potential witnesses to the incident.
      (ii) The officer should not park the police vehicle directly in front of the residence or other site of the disturbance. The officer should be alert for assailants leaving the scene and for the employment of weapons from doors, windows, or nearby vehicles.
      (iii) Consider the surroundings before knocking on door; listen and look in any nearby window to obtain additional information about the situation (layout of house, number of people involved, weapons).
      (iv) Officers must be concerned for their own safety as well as the victim's. Minimize the possibility of injury, stand on the side of the door when knocking. The unexpected may occur when the door opens.
      (v) The officer otherwise should employ standard precautionary measures in approaching the scene of the incident.
   (b) Initial contact with occupant(s)

(i) Identification: Identify oneself as a police officer by name, give an explanation of police presence, and request entry into the home. If the complainant is in the home, ask to see him or her. If the person who called the police is someone other than the subject of the call, the officer should not reveal the caller's name.

Minimum Standard: 5

(ii) Consent search: An officer may enter and conduct a search of the premises if consent has been given to do so. Although a consent search eliminates the need for a warrant and for probable cause, such consent must be freely and voluntarily given. If two people have joint ownership of a place or thing, either one may give a valid consent. A spouse can consent to the search of premises used jointly by both the husband and wife. This is also true if the occupants are cohabitants. However, if one of them exercises sole control over part of the premises, the other cannot give valid consent to search that part.

(iii) Refused entry: When refused entry to a residence, be persistent, explaining that a complaint was received and must be verified. If entry is still refused, request the dispatcher to call the complainant to re-contact the victim. If still refused entry, contact your supervisor and explain the situation. The supervisor or senior police officer on the scene will decide whether to remain or leave. If officers remain at the scene, they should move to public property (the street) and observe the premises.

(iv) Forced entry: There may be times when enough probable cause exists to indicate that a felony is occurring, has just occurred, or that a life is in danger. In these cases, if entry is refused, or there is no reply from the premises, forced entry may be necessary to protect a life or make an arrest. Among the circumstances that can provide probable cause to force an entry include cries for help, weapons displayed, obvious signs that a struggle occurred, and/or an eyewitness account that a felony occurred and the victim is still on the premises. Officer shall evaluate the following elements when considering a forced, warrantless entry:

(a) The degree of urgency involved and the time required to get a warrant.
(b) The possibility of danger to others, including police officers left to guard the site.
(c) Whether the suspected offense involved violence.
(d) Whether officers reasonably believe that persons may be armed.

3. Once inside, the responding officer should establish control by:
   (a) Identifying potential weapons in the surroundings.
   (b) Separating the victim and the abuser.
   (c) Restraining the abuser if necessary, and removing the abuser to the patrol car if immediate arrest is warranted.
   (d) Inquiring about the nature of the incident.
   (e) Identifying all occupants/witnesses on the premises.
   (f) Separating occupants/witnesses from the victim and accused and keeping them out of hearing range (to avoid compromising their witness status).
   (g) Officers must protect the victim from further abuse. Separate from abuser, administer first aid, and arrange for medical attention if victim is hurt. Victims can sustain internal injuries to the stomach, breast area, portions of the head covered by hair, and the back. Pregnant women are often hit or kicked in the stomach. The absence of external injury does not mean the victim has not been assaulted.
   (h) If victim appears injured and yet refuses medical assistance, carefully document any observed injuries, as well as the refusal of medical treatments.
4. <u>On-scene investigation</u>.
   (a) The responding officer should interview the victim and the abuser as fully as circumstances allow. The officer should be alert to possible incriminating statements.
   (b) The officer should ensure the victim's safety and privacy by interviewing the victim in an area apart from the assailant, witnesses, and bystanders. In questioning the victim, the officer should use supportive interview techniques. Critical to the success of the interview is the police officer's manner. Domestic abuse is a serious crime and the officer's behavior can communicate this fact to both the victim and the abuser by his or her behavior at the scene. Officers must show interest through effective listening and remain aware of non-verbal communication signals. Maintain good eye contact through natural, spontaneous glances. (Fixed gazes or staring increase fear and hostility.) A relaxed stance, along with appropriate facial and head movements, demonstrates interest and encourages the victim to continue speaking.
   (c) Allow the parties to describe the incident individually without interruption at the beginning of the interview. While still separated, the officer(s) should ask details about points for clarification and summarize the stated accounts, allowing the parties to point out anything that may be misrepresented.
   (d) The officer should ask the victim about previous domestic incidents, their frequency and severity. The officer should not tell the victim what action s/he intends to take until all available information has been collected.
   (e) If the accused has been arrested prior to interview, the accused must be given Miranda warnings before being questioned. If the accused has fled the scene, the officer should solicit information as to the possible whereabouts of the accused (place of employment, relatives, friends, etc.)
   (f) If the dispatcher has not advised the officer of the existence of a protection from abuse order, the officer should ask the victim whether there is such an order, if so, if the victim can produce a copy and what police department might have a copy. The officer should contact local police department specified by the victim to verify the existence and effective period of the order. The officer should note carefully the restrictions imposed by the order so that the officer may determine whether there is probable cause to believe that the order has been violated.

(g) The officer should interview any witnesses as fully and as soon as circumstances allow. If witnesses provide information about prior incidents, the officer should document such incidents to establish a pattern.

(h) Children of disputants should be interviewed with care and kindness. Sit, kneel or otherwise be at their level when speaking to them. Signs of trauma and apparent healing of abuse wounds should be noted.

(i) Gathering evidence:

(i) Physical evidence takes three forms in domestic abuse case: the injuries of the victim, evidentiary articles that substantiate the attack, and the crime scene itself.

(ii) Victim's account of injuries sustained can be corroborated by a medical examination.

(iii) The investigating officer will see that photographs are taken of visible injuries on the victim and make those photographs available for prosecution.

(iv) Photographing the crime scene to show that a struggle occurred is preferred; if not possible, make a written description of it.

(v) All articles of evidence should collected as in other investigations.

(vi) An audio tape recording of the scene upon arrival is recommended.

Minimum Standard: 6

5. The Arrest Decision.

(a) The responding officer should arrest the abuser whenever arrest is authorized. If the officer decides not to arrest, the officer must include in his report of the incident a detailed explanation of the reasons why an arrest was not made.

(b) Under current Maine law, arrest is mandatory if there is probable cause to believe that there is a violation of a court approved protective order or consent decree or that the abuser has committed aggravated assault.

Minimum Standard: 7

(c) A warrantless arrest is authorized by 17-A M.R.S.A. §15 if an officer has probable cause to believe a person has committed or is committing:

(i) Murder;

(ii) Any class A, B or C crime;

(iii) Assault, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(iv) Assault, criminal threatening, terrorizing or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members.

(v) Any person who has committed in the officer's presence any Class D or Class E crime.

(vi) Violation of a condition of release in violation of Title 15, section 1026, subsection 3 (preconviction bail) and section 1051, subsection 2 (post conviction bail).

(d) A warrantless arrest is authorized by 19 M.R.S.A. §769(2) if the officer has probable cause to believe that a person has violated a protective order or consent decree if the person has actual notice of said order or decree whether or not the crime is committed in the officer's presence.

(e) A warrantless arrest is authorized by 15 M.R.S.A. §321 (6) if the officer has probable cause to believe that a person has violated an order issued pursuant to 15 M.R.S.A. Section 321 (2) as a condition of release whether or not the crime was committed in the officer's presence.

Minimum Standard: 8

(f) The officer should not consider the following factors in making the arrest decision.

(i) The marital status of the parties.
(ii) The ownership or tenancy rights or either party.
(iii) Verbal assurances that the violence will stop.
(iv) A claim by the accused that the victim provoked or perpetuated the violence.
(v) Denial by either party that the abuse occurred when there is evidence of domestic violence.
(vi) Speculation that the victim will not follow through or cooperate with criminal prosecution (whether based on prior incidents involving the same victim, the victim's hesitancy about pursuing prosecution, or any other factor).
(vii) The disposition of any previous police calls involving the same victim or accused.
(viii) Speculation that the arrest may not lead to a conviction.
(ix) Intoxication of either of the parties.
(x) The existence or not of a current protection from abuse order (except insofar as the violation of such an order would require arrest). No action by the Plaintiff in a civil Order for Protection of Abuse can void or vacate that order, can limit its force of effect, or can in any way change or reduce the enforcement responsibilities of police officers. A civil Order for Protection From Abuse can only be voided or vacated by a judge after either the plaintiff or the defendant requests a hearing and provides evidence as to why the order should be voided or vacated. No action by the Plaintiff in a civil Order for Protection From Abuse can be a criminal violation of that order. A civil Order for Protection From Abuse places conditions with criminal sanctions on actions by the Defendant, not the Plaintiff.

Minimum Standard: 13

(xi) The victim's emotional state.
(xii) Concern about reprisals against the victim.
(xiii) Adverse financial consequences that might result from the arrest.
(xiv) That the incident occurred in a private place.
(xv) The racial, cultural, social political, or professional position, or the sexual orientation, of either the victim or the accused.

(g) It is the officer's responsibility to decide whether an arrest should be made. The officer, therefore, should not consider the victim's opposition to arrest and should emphasize to the victim, and to the accused as well, that the criminal action thus initiated is the State's action, not the victim's action.

(h) If the officer arrests for the commission of a crime, the officer should confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons should be held as evidence for prosecution.

6. Effecting the Arrest.

(a) The responding officer should take the accused into custody as soon as the officer determines that a warrantless arrest is appropriate. If the suspect has fled the scene, the officer should initiate procedures to pursue and apprehend the accused as promptly as possible, since the risk is high in domestic violence cases that the accused will return to the victim's residence or the scene of the violence. If a warrant is necessary, the officer should obtain and execute the warrant as soon as practical.

(b) If a law enforcement officer has reasonable grounds to believe, based upon his personal observation, that a person may be mentally ill and that due to his condition he presents a threat of imminent and substantial physical harm to himself or to other persons, the officer:

(i) May take the person into protective custody.

(ii). If the officer does take the person into protective custody, shall deliver the person forthwith for examination by an available licensed physician or licensed clinical psychologist, as provided in 34-B M.R.S.A. §3863.

7. Other On Scene Assistance to Victims and Dependents.

(a) Maine law provides that whenever a law enforcement officer has reason to believe that a family or household member has been abused. the officer shall immediately use all reasonable means to prevent further abuse, including:

(i) Remaining on the scene as long as he reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit.

(ii) Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital.

Minimum Standard: 9

(iii) Giving that person immediate and adequate written notice of his rights, which shall include information summarizing the procedures and relief available to victims of the family or household abuse.

(iv) Arresting the abusing party with or without a warrant pursuant to section 769 and Title 17-A, section 15.

(b) Other procedures that will facilitate effective prosecution and ensure the safety of victims of domestic abuse include:

(i) Advise the victim of what procedure will happen next. including the probability that the accused will be in custody for only a short period of time.

(ii) Obtain the address and telephone number where the victim can be contacted if the victim decides to leave the residence (being careful that the accused cannot overhear).

(iii) Obtain from the victim information to be included in the arrest report indicating any special conditions of bail that should be requested at the preliminary arraignment.

(iv) Provide the victim with the police incident number (if available), the officer's name and badge number. and a follow-up telephone number and time when the appropriate officer can be reached.

(v) Advise the victim of the name and number of the nearest domestic violence hot line. Officers should have domestic violence project cards on hand for this purpose.

(c) If the victim does not speak English, the officer should arrange for translation of the foregoing notices and advice.

(d) In circumstances in which it is necessary for the victim temporarily to leave the residence, the officer should offer the victim assistance in locating lodging with family, friends, in public accommodations, or at a domestic violence shelter/safe homes.

Minimum Standard: 11

(e) Advise the victim(s) of the availability of Temporary Protection from Abuse Orders and where they can be obtained. Advising the victim(s) that transportation is available to a court or person authorized to issue such Protection from Abuse Orders.

Minimum Standard: 10

(f) Once an Order for Protection from Abuse Order has been issued, whether temporary or permanent, and once the officer is aware of this order it shall be his/her duty to serve or cause to be served such order in a timely and expeditious manner.

Minimum Standard: 12

8. Elderly Victims:. If a law enforcement officer, acting in a professional capacity suspects that an adult has been abused, neglected or exploited and has reason to believe that the adult is incapacitated (impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person), the officer shall immediately report or cause a report to be made to the Department of Human Services.

9. Child Victims and Dependents:

(a) When a law enforcement officer acting in a professional capacity knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected, the officer shall report or cause a report to be made to the Department of Human Services.

(b) If the accused is arrested and was the sole caretaker of a child, and/or if the victim is the sole caretaker of a child and can no longer provide care (as, for example, when the victim is hospitalized), the officer should contact child protective services and remain at the residence until a protective services worker arrives or should take the child into custody pursuant to the Juvenile Code.

10. Processing the Accused:

(a) A person arrested without a warrant for domestic abuse crimes should be charged with any other crimes properly charged as a result of the incident. Likewise, a person arrested for violation of a protection from abuse order should be charged with any other crimes properly charged as a result of the incident in which the violation occurred.

(b) The officer responsible for processing the accused for preliminary arraignment should bring to the attention of the district attorney or the court or bail commissioner any circumstances noted in the arrest report or known to the officer that argue for special conditions of bail authorized by 15 M.R.S.A. § 321 or 1026. Such conditions may include, but are not limited to: enjoining the defendant from abusing, harassing, or intimidating the victim; excluding the defendant from the home, school, and/or workplace of the victim; enjoining the defendant from contacting the victim in person or by telephone; and restraining the defendant from contact that will prevent the victim from performing the victim's normal daily activities.

11. Encouraging follow-through by Victims.

(a) The chief of police (in the jurisdiction in which the incident occurred) should establish procedures to notify the victim of any conditions of bail imposed and to advise the victim of who to contact if a violation occurs.

(b) To the extent possible, the chief also should designate a person to make contact with victims of domestic incidents for the purpose of follow-up. The contact should be made within 30 days following the incident to determine whether subsequent violence or intimidation have occurred. The department should document such follow-up and include the information with the original report. If such acts have occurred, the department should investigate the incident, proceeding in accordance with the provisions of this general order.

12. Written Report and Data Collection.

(a) A written report clearly identified as a domestic incident report must be completed by the officer responding to any call covered by this general order. The report should include the following information:

(i) Names, addresses, and phone numbers of the victim, the accused, any witnesses, and the caller.

(ii) A second permanent address and telephone number for the victim (such as a close family member or a friend).

(iii) A statement of the relationship between the victim and the accused.

(iv) A narrative of the incident (including the date, time, and whether the accused appeared intoxicated or under the influence of a controlled substance).

(v) What, if any, weapons were used or threatened to be used.

(vi) A description of any injuries observed by the officer.

(vii) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.

(viii) Documentation of any evidence that would tend to establish that a crime was committed.

(ix) An indication of what arrest decision was made; a warrantless arrest; an arrest with a warrant; or not arrest.

(x) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.

(xi) The crimes with which the accused was charged.

(xii) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.

(xiii) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.

(xiv) The names and ages of any children present in the household: their address and phone number if children were relocated.
(xv) Notation of previous incidents reported to the Department.
(xvi) Notation of previous incidents reported by the victim or witnesses.
(xvii) If an officer was injured in the incident, the nature and circumstances of injury.

(b) Data collection.

(i) All written reports on the same person should be kept together or cross-referenced so that repeat domestic violence can be monitored.
(ii) The written report, or another document (such as an index card) or computer entry generated from the written report, should become a domestic violence tracking report.
(iii) To the extent possible, the domestic violence tracking report should be accessible to dispatchers and police officers.

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: RESPONSE TO DEVIANT BEHAVIOR

EFFECTIVE DATE: Dec. 11, 1995

REVIEW DATE:

AMENDS/SUPERSEDES: Any Previous

APPROVED James Thevault
CHIEF OF POLICE

INDEX WORDS: deviant behavior; protective custody; mentally ill persons

I. POLICY

It shall be the policy of this agency to assist persons who are exhibiting symptoms of deviant behavior and appear to represent an imminent danger to themselves or to someone else.

Minimum Standard: 1

II. PURPOSE

Top describe deviant behavior and circumstances under which police personnel will make an arrest or protective detention in order to assist said person or protect the general public.

III. DEFINITIONS

A. Deviant Behavior: Behavior which creates a condition, either physical or psychological in nature, which presents a threat of imminent and substantial harm to that person or to other persons.

Minimum Standard: 2

B. Imminent and substantial physical harm" is defined as any condition which creates a reasonably foreseeable risk of harm to someone if not prevented or precluded. The terms (imminent and substantial) take into consideration the immediacy of an event occurring, the seriousness of the event and the likelihood the event will take place.

IV. PROCEDURES - GENERAL

A. Whenever police encounter deviant persons who represent an imminent and substantial harm to themselves or someone else, the officer(s) shall be empowered, based upon probable cause, to take that person into protective custody consistent with MRSA Title 34B, sec. 3862, and to present that person to duly licensed physician or clinical psychologist, without undue delay for purposes of evaluation and/or treatment.

Minimum Standards: 3 and 4

B. If the deviant person taken into custody has committed a criminal act, the officer in conjunction with the duly licensed practitioner, shall determine the most appropriate confinement condition to satisfy the protection of the public and the treatment of the deviant person.

Minimum Standards: 5 and 6

C. Protective custody of deviant persons shall be based upon probable cause on the part of the law enforcement officer and consistent with probable cause standards as defined by the LEOM (Chapter 1), officers may consider the totality of the circumstances to include: personal observation, reliable information from other sources, and known prior history.

Minimum Standard: 7

D. All officers are required to familiarize themselves with available options which exist in the region where they provide police service to include the techniques of referral which may range from informal referral to involuntary commitment.

Minimum Standard: 8

E. Officers who encounter situations of deviant behavior shall exercise their discretion and if they take actions of a formal nature shall document said action in writing on a form designed or designated for such purpose by the department.

Minimum Standard: 9

ADDENDUM

Suggested Definition of Deviant Behavior

Deviant behavior - Behavior characterized by symptoms such as a loss of contact with reality, extreme agitation, severe depression, imminent suicidal or homicidal tendencies, or inability to control behavior to the extent that the symptoms are of sufficient severity that they cause such a degree of mental dysfunction that requires professional evaluation.

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: HOSTAGE/BARRICADED SUBJECT INCIDENTS

EFFECTIVE DATE: Dec. 11, 1995 REVIEW DATE:

AMENDS/SUPERSEDES Any Previous APPROVED James Thouault
CHIEF OF POLICE

INDEX WORDS: barricaded subject; hostage; hostage incident; Officer-in-charge (OIC); outer perimeter; inner perimeter; mutual aid; use of force; tactical response team; crisis negotiators.

I. POLICY

In hostage/ barricaded subject situations it shall be the policy of this law enforcement agency to protect as much as possible the lives of the hostages, civilians and officers. reasonable efforts will be made, to enhance the prospects of peacefully resolving the incident through communication with the suspect whenever possible and develop and maintain the ability to use alternative approaches to resolve the incident should communications fail. In hostage situations, a reasonable effort to effect the safe release of the hostages will be undertaken. Officers shall work in ways which minimize the use of force and, when force is required, shall use the minimum amount of force necessary to accomplish the legal purpose. Mutual aid may be requested by the OIC from other law enforcement agencies to assist with the immediate containment of the barricaded subject and control of the perimeter.

Minimum Standard: 1

II. PURPOSE

It is the purpose of this policy to provide general guidelines for handling hostage/barricaded subject situations.

III. DEFINITIONS

A. Barricaded Subject: Any individual who is reasonably believed to be a threat to commit serious bodily injury to anyone in the community and who is in a stronghold position.

Minimum Standard: 3

B. Hostage: Any person held by another against his/her will by force or threat of force, expressed or implied.

C. Barricaded incident: Any situation in which a person, while in a place of cover and who is believed to be armed, resists being taken into custody to include armed persons threatening suicide.

D. Command Post: A secure position from which the OIC directs the operation.

E. Containment: The isolation of the barricaded person to minimize the possibility of escape and/or the injury to any other person.

F. Crisis Negotiators: Any person who is authorized by the OIC to act as the chief negotiator for the department by communicating with the barricaded subjects or hostages.

G. Hostage Incident: Any situation in which a person holds another persons against her/his will.

H. Inner Perimeter: The immediate area of containment.

I. Officer-In-Charge (OIC): The highest ranking officer at the scene until specifically relieved by a superior, who is authorized to assume command of the situation.

J. Outer Perimeter: The control area surrounding the inner perimeter providing a safe zone for access to the inner perimeter as well as defining the limit of access by unauthorized persons.

IV. PROCEDURES

All officers are responsible for being familiar with Title 17A, Section 15, Section 107, and all other applicable statutes, and pertinent chapters of the Maine Law Enforcement Officers Manual as it pertains to the use of force.

Minimum Standard: 2

A. Patrol Officers: Patrol officers confronting hostage/barricaded subject incidents shall not initiate tactical actions other than those necessary to protect the lives and safety of themselves or others consistent with this department's use of force policy. Upon stabilizing the incident, officers shall then:

Minimum Standard: 4

1. Notify a supervisory officer of the incident and circumstances.
2. Contain and isolate the incident scene. Establishing an inner containment perimeter to provide a reasonable degree of safety while. Maintain contact with the incident scene and (as time and resources permit) establish an outer containment perimeter to control pedestrian and vehicular traffic into the area.

Minimum Standard: 9b

B. Evacuation of Personnel In Affected Area:

1. Whenever possible, evacuate occupants of affected residences and businesses to a point beyond the outer perimeter.

Minimum Standard: 9c

2. Record the name and address of anyone who refuses to evacuate after being warned of the potential hazards.
3. Do not allow friends, relatives, or other interested persons to enter the location.

C. Establishment of a Command Post (CP): The command post should be established under the following conditions:

1. Outside the suspects line of fire and sight.
2. Attempt to obtain the use of one or more telephone lines.
3. In an area large enough to accommodate responding personnel and vehicles.

Minimum Standard: 9d

D. Requests for Support Services: Once confirmation has been received from field units that a barricaded suspect/hostage situation in fact exists, the OIC will request a tactical/hostage negotiation team, and other appropriate forms of support services.

Minimum Standard: 8 and 9e

E. Officer in Command (OIC): The ranking officer at the scene shall be in command until specifically relieved by a superior. The OIC shall:

1. Inform the watch commander about the nature and circumstances surrounding the incident.
2. Delegate the tactical mission to the OIC of the tactical response team;
3. Ensure development of a communications/negotiations process and an emergency response team reaction.
4. Ensure establishment of an inner and outer perimeter, command post, tactical operations center, negotiations center and a staging area for officers and others arriving for assignment.
5. Assign a press center and an officer for press liaison.
6. Ensure that responsibility for traffic and crowd control is established, and that routes for emergency vehicles have been designated.
7. Make provisions for recording personnel assignments and developing a chronological record of events at the command center and tactical operations center.
8. Ensure that necessary equipment from the fire department is made available at the staging area together with any other units or equipment such as canine teams, aviation or marine unites.
9. Ensure that emergency medical services are available at the site.

Minimum Standards: 5, 6, 7, and 9a-9h

F. Tactical Response Team Commander: The commander of the tactical response team shall:

1. Assist the OIC in assessing the situation and formulate and provide the OIC with recommended tactical alternatives should communications with the subject fail to resolve the incident.
2. Determine equipment needs and assign personnel to control and contain the inner perimeter.
3. Designate marksmen and entry teams as necessary.
4. Ensure that personnel manning the inner perimeter maintain firearms discipline and are provided with periodic relief by appropriate tactical response team members.
5. Prepare appropriate logistical plans to include diagrams of the location in question.
6. Ensure the establishment of a tactical operations center if necessary.
7. Maintain contact with and keep the command post informed of all developments and operations.

G. Intelligence Gathering shall include but is not limited to the following:

1. Obtain as much information as possible about the suspects/hostages; name, physical description, clothing description, criminal history, weapons, and mental state.

Minimum Standard: 8

2. Obtain the phone number of the location and where the phone is located within the structure.
3. If possible obtain a drawing of the floor plan of the location, including entrances, location of windows, inside/outside doors, and any other information that might assist the tactical/hostage team.

H. Hostage Communications Team: The individual in charge of communicating with the subject shall:

1. Provide any requested assistance to the OIC.
2. Provide primary and secondary negotiators and, as available and necessary, a negotiations investigator;
3. Obtain all pertinent information about the hostage taker, the hostages, hostage site and other barricaded subjects.
4. Designate a location to interview witnesses, released hostages and others.
5. Debrief hostages following the incident.

I. Psychological Services: Psychological services shall when available, serve as a resource to the hostage communications team and will be utilized to:

1. Monitor communications between the negotiators and subjects and provide negotiators with assessments of effectiveness, recommended strategies and other relevant information.
2. Assist in interviewing witnesses and debriefing hostages.
3. Provide professional assistance to hostages witnesses and others as may be necessary.

J. Establishment of Media Briefing Area: Select a location to assemble responding press representatives, and assign someone to brief and remain with them with them pending the arrival of press liaison personnel.

Minimum Standard: 9g

K. Mutual Aid: Mutual aid for the planned use of force shall be authorized by the Chief of Police or the department's designated authority.

L. Use of Force: Nothing in this policy and procedures shall be interpreted to mean that an officer is automatically authorized to use deadly force. The decision to use any force up to and including deadly force shall be based upon the totality of the circumstances and shall be according to state statutes, prevailing case law, training standards and departmental policies.

M. Incident Critique: Upon completion of the incident, a briefing should be held to critique the operation. This should involve all parties involved.

Minimum Standard: 10

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: CRIMINAL CONDUCT ENGAGED IN BY A LAW ENFORCEMENT OFFICER

EFFECTIVE DATE: Dec. 11, 1995 REVIEW DATE:

AMENDS/SUPERSEDES: Any Previous APPROVED: James Thenault CHIEF OF POLICE

INDEX WORDS: complaint; internal investigations; due process criiminal misconduct

I. POLICY

The chief of police must ensure the continued efficient and smooth operation of his/her police agency. The image of the department depends on the personal integrity of all departmental employees. The public image of this department, in part , is determined by the departments response to allegations of criminal misconduct , on the part of a law enforcement officer.

The department must competently and professionally investigate any and all allegations of criminal conduct , in response to citizen complaints. therefore it is the policy of this law enforcement agency to prevent corruption and investigate and prosecute , to the fullest extent of the law , any criminal conduct engaged in by a member of this department.

Minimum Standard: 1

II. PURPOSE

The purpose of this policy is to describe procedures for making complaints , of criminal misconduct by an officer, for investigating these complaints, and to prescribe the actions to be taken in the event that criminal conduct is alleged and/or identified. it is also the purpose of this policy to list and define the disposition of complaints.

III. PROCEDURES

A. ALLEGATIONS:

1. Any allegation of criminal misconduct, by an officer of this department, will be forwarded to the chief of police as soon as possible. (see Maine Chief's of Police Model Policy (Citizen Complaints Against a Police Officer) Model Policy section 1-10-R.

2. Complaints alleging criminal misconduct on the part of a police officer shall be handled as an internal affairs matter, and may be investigated by an outside agency upon request of the chief of police.

These outside agency's may include but are not limited to the District Attorney's office, Attorney General, or Maine State Police.

Minimum Standard: 2

B. Internal Administrative Action:

1. See Maine Chief's of Police Model Policy 1-11 (Employee Discipline) section

Minimum Standard: 3

2. Any employee being investigated for a criminal offense shall have all the rights and privileges afforded to any citizen by the United States Constitution.

C. Referral: It shall be the duty of the chief of police to refer all criminal conduct or convictions to the Complaint Committee of the Board of Trustees of the Maine Criminal Justice Academy as soon as possible.

Minimum Standard: 4

MEXICO POLICE DEPT. RULES AND REGULATIONS

SUBJECT: HATE/BIAS CRIMES

EFFECTIVE DATE: Dec. 11, 1995 REVIEW DATE:

AMENDS/SUPERSEDES Any Previous APPROVED BY: James Thouault
CHIEF OF POLICE

I. POLICY:

It is the policy of this law enforcement agency to safeguard the state and federal rights of all individuals irrespective of their race, religion, ethnic background, or sexual orientation. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes designed to infringe upon these rights are viewed very seriously by this agency and will be given high priority. this agency will use every necessary resource rapidly and decisively to identify the perpetrators and refer them to the prosecutors office for appropriate action against them.
MINIMUM STANDARD 1

Also, recognizing the particular fears and distress typically suffered by victims of these crimes, the potential for reprisal and escalation of violence and the possible far-reaching negative consequences of these acts on the community and the agency, particular attention shall be given to addressing the security and related concerns of the immediate victims, as well as their families and others affected by the crime.

It is the responsibility of each officer to be familiar with the "MAINE CIVIL RIGHT ACT", M.R.S.A. TITLE 5, CHAPTER 337-B.
MINIMUM STANDARD:2

II. PURPOSE:

This policy is designed to assist employees in identifying crimes motivated by bias toward an individuals race, religion, ethnic background and/or sexual orientation and to define appropriate steps for assisting victims and apprehending suspects.

III. DEFINITIONS:

A. Hate crime: Any unlawful action designed to frighten, harm, injure, intimidate, or harass an individual, in whole or in part, because of a bias motivation against the actual or perceived race, religion, ethnic background, or sexual orientation of the victim.
MINIMUM STANDARD: 3

B. Race: A group of persons who possess common physical characteristics (e.g., color of skin, eyes and/or hair, facial features; etc) genetically transmitted by decent and heredity that distinguish them as a distinct division of humankind (e.g., Asians. blacks, whites. etc.).

C. Ethnic Group: A group of persons of the same race or national origin who share common or similar traits, languages, customs, and traditions (e.g.. Arabs. Hispanics, etc.).

D. Religious Group: Any persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists, etc.).

E. Sexual Orientation: A sexual attraction toward, and responsiveness to, members of one's one sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals, etc.).

F. Bias Incident: Any event which does not rise to the level of criminal conduct but creates a socially divisive atmosphere for members of the minority community targeted.

Minimum Standard: 3

G. Civil Rights Officer: A member of the department who has received special training in identifying and investigating civil rights violations by the Attorney General's office. The Civil Rights Officers for the department may be identified by asking any supervisor.

Minimum Standard: 8

IV. INITIAL RESPONSE PROCEDURES:

A. Dispatcher Reporting: Whenever a dispatcher receives a call which falls in the category of a Civil Rights Violation, the dispatcher will advise the responding unit(s). Once the responding unit has made a confirmed determination that the incident is of a Civil Rights nature, the dispatcher will notify the shift supervisor of the situation. Normal computer entries per SOP will also be followed.

Minimum Standard: 4

B. Officer Response Procedures: When an officer at the scene of an incident believes that it may have been motivated by racial, religious, ethnic, or sexual orientation bias (RRES), the officer shall take any preliminary action necessary, such as:

1. Determine whether any perpetrators are present and, if so, take appropriate enforcement measures.
2. Restore order to the crime scene and take any necessary actions to gain control of the situation.
3. Identify any injured parties and take steps to provide medical assistance.
4. Identify any witnesses or others who have knowledge of the crime.
5. Protect the crime scene.
6. Summons a field supervisor to the scene.

Minimum Standard: 5

C. Supervisor's Responsibilities: The supervisor shall confer with the initial responding officer, take measures to ensure that all necessary preliminary actions have been taken and inform a civil rights officer of the criminal act. The supervisor shall request any appropriate additional personnel necessary to accomplish the following:

1. Provide immediate assistance to the crime victim, such as:
   a. Express empathy for the victim and show a sincere interest in his/her well-being.
   b. Express the law enforcement agency's official position on the importance of these cases, the measures that will be taken to apprehend the perpetrators, and the officer's and department's interest in the victims well-being.
   c. Allow the victim a period in which to ventilate his/her immediate concerns and express his/her feelings.
   d. Assist the victim in identifying and contacting individuals or agencies that may provide support and assistance. These may include family members or close acquaintances, family clergyman or departmental chaplain and community service agencies that provide shelter, food, clothing, child care, or other related services.
   e. Provide security and precautionary advice to the victim and arrange for any additional security that may be required for protection of the victim.
2. Conduct a standard preliminary investigation to include preliminary interviews of the victim and any witnesses to the incident.
3. Ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as an RRES offense.

Minimum Standard: 5

V. CIVIL RIGHTS OFFICER RESPONSIBILITIES:

A. When responding to the scene of an alleged RRES incident, the Civil Rights Officer shall assume control of the follow-up investigation. This includes:

1. Assure the scene is properly protected, preserved and processed, and all physical evidence of the incident is removed as soon as possible. If evidence of an inflammatory nature cannot be physically removed (e.g., painted words or signs on a wall) the owner of the property shall be contacted to remove such material as soon as possible and the officer shall follow-up to ensure that this is accomplished in a timely manner.
2. Conduct a comprehensive interview with all victims and witnesses at the scene, or as soon as possible thereafter, and canvass the neighborhood for additional personal sources of information.
3. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense, and its potential inflammatory and related impact on the community, including the Attorney Generals office at 207-626-8844.

Minimum Standards: 5, 7, and 9

4. Work closely with the District Attorney's office to ensure that a legally adequate case is developed for prosecution, regardless of the perpetrators motivation.

Minimum Standards: 5, 6, and 9

5. Coordinate the investigation with agency, state and regional intelligence operations. These sources shall provide the Civil Rights Officer with an analysis of any pattern, organized groups, and suspects potentially involved in the offense.
6. Coordinating the investigation with the identification and other units of the agency and with outside agencies where appropriate.
7. Maintain contact with the initial responding officer and keep him apprised of the status of the case.
8. Make a final determination as to whether the incident should be classified as an RRES crime.
9. Complete any reports necessary to comply with statistical reporting requirements for Hate/Bias crimes.

Minimum Standards: 5 and 9

B. Civil Rights Officers shall also take the lead role in providing on-going assistance to the crime victim to include:

1. Contact the victim periodically to determine whether he/she is receiving adequate and appropriate assistance.
2. Provide on-going information to the victim about the status of the criminal investigation.

Minimum Standards: 5 and 9

VI. COMMUNITY RELATIONS/CRIME PREVENTION:

RRES crimes are viewed in the community not only as crimes against the targeted victim, but also as a crime against the victim's racial, religious, ethnic, or sexual orientation group, as a whole. Working constructively with segments of this larger audience after such incidents, is essential to help prevent additional RRES incidents and encourage any other previously victimized individuals to step forward and report those crimes. Toward this end, this agency's community relations function, or officers so assigned shall:

A. Meet with neighborhood groups, residents in target communities and other identified groups to allay fears, relay this agency's concern over and response to this and related incidents, reduce the potential for counterviolence and provide safety, security, and crime prevention information.
B. Provide direct and referral assistance to the victim and his family.
C. Conduct public meetings on RRES threats and violence in general, and as it relates to specifics incidents.
D. Establish liaison with formal organizations and leaders.
E. Expand, where appropriate, existing preventive programs such as anti-hate seminars for school children.