

# GREENWOOD & STREICHER, LLC

1600 SCRIPPS CENTER  
312 WALNUT STREET  
CINCINNATI, OHIO 45202-4038

(513) 943-4200  
GREENWOODSTREICHER.COM

November 16, 2015

Dwayne S. Flournoy  
Chief of Police  
Hallandale Beach Police Department  
400 S. Federal Hwy.  
Hallandale Beach, FL 33009

Re: Performance Assessment

Dear Chief Flournoy:

We have completed our extensive review of the Hallandale Beach Police Department, and are tendering you our final report. This report contains an overall summary of our findings and recommendations, and provides an assessment of HBPD's use of force, accountability and oversight processes, and technological needs.

We believe that this assessment will assist you in enhancing public safety, bettering the relationship between your staff and stakeholders, and enhancing accountability, and we are honored to be part of that process.

Sincerely,



Scott T. Greenwood



Thomas H. Streicher

# **Performance Review of the Hallandale Beach Police Department**

## **Executive Summary**

After a series of critical incidents including officer-involved shootings, City Manager Renee Miller and Chief Dwayne Flournoy initiated both internal and external assessments of the operations of the Hallandale Beach Police Department. This report is the product of that external review. The purpose of this assessment is to evaluate the operations and performance of the HBPD in both absolute terms and against nationally recognized models and standards for law enforcement agencies.

This report reflects an assessment of the Hallandale Beach Police Department pursuant to the engagement letter of November 25, 2014, and concentrates on the use of force, accountability systems, and technological needs of the agency. During the pendency of the review, HBPD began to undertake structural and programmatic changes to enhance the operations of the agency; those changes, where relevant, are included in this review.

Our review was comprehensive, and touched many facets of the HBPD. We identified three principal issues running throughout every aspect of the operations of HBPD. These issues are remarkably consistent from division to division, and from line officers to supervisors.

**Issue 1: Use of Force, Including Training and Reporting**

**Issue 2: Accountability Systems and Processes**

**Issue 3: Technology Needs**

We strongly recommend that the Chief, his command staff, the City Commission and Administration, and other City of Hallandale Beach stakeholders work collaboratively and forcefully to address these three overarching issues as HBPD continues on a path of continuous improvement as a professional, non-political law enforcement and public service agency.

# **Performance Review of the Hallandale Beach Police Department**

## **Introduction and Overview**

After a series of critical incidents, including five officer-involved shootings, Chief Dwayne Flournoy and City Manager Renee Miller began a process of internal and external review of the operations of the Hallandale Beach Police Department. This review was proactive, and began even before the events in Ferguson, Missouri in August 2014 that focused intense global attention on American law enforcement. Expressing a strong desire to transform HBPD into an efficient and effective twenty-first century law enforcement and public service agency that performs its mission with enhanced accountability, transparency, and legitimacy, the City Administration, through the support of the City Commission, retained us to conduct a performance review or “audit” of the operations and performance of the HBPD in both absolute terms and against nationally recognized models and standards for law enforcement agencies. Our work concentrated on review of the use of force by HBPD personnel, accountability systems in the agency, and technology.

## **Process and Methodology**

Our review was comprehensive, and touched upon all facets of operations of the HBPD. We had unprecedented access to all divisions, units, and personnel of the department. Staff were specifically encouraged to speak with us both on and off the record and to direct concerns, suggestions, and ideas to us throughout the evaluation process.

Our review included interviews of HBPD personnel and City leaders, as well as stakeholders and residents who are served by the agency. We spent over 150 hours of time speaking with over one hundred different personnel and stakeholders. We attended command staff meetings, City Commission meetings, and community events as well.

We also reviewed HBPD’s general orders, policies, procedures, and internal operating procedures.

## **Areas of Concentration**

We were tasked to focus on three key areas — use of force, accountability systems, and technology needs. In our discussions with agency and other personnel, these three areas repeatedly came up. It is apparent that HBPD and City leadership accurately determined the predominant issues facing the agency.

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## Use of Force

Incidents involving the use of force by police officers historically have been an issue of concern between American police agencies and the populations they serve. Recent events such as those witnessed in Ferguson, Missouri; Baltimore, Maryland; and New York City have highlighted the grave concerns expressed by the public as it pertains to the accountability and transparency of our police agencies.

The Hallandale Beach Police Department (HBPD) is required to address these same concerns whenever a member of the organization engages in a use of force to accomplish the police mission. In fact, the HBPD has seen an uptick in the use of deadly force during the recent past. While in absolute terms the increase is numerically low, as a percentage of interactions with subjects it gave rise to the City's, and its residents' concerns. This surge in activity is part of the reason for the City of Hallandale Beach to request a review of its use of force protocols and accountability systems.

As part of the review, Greenwood & Streicher conducted a wide range of interviews with members of the organization including, but not limited to, all levels of the police department, the training coordinator, neighboring police agency employees, other Hallandale Beach City employees, City Commission members, and members of the Hallandale Beach community. Greenwood & Streicher also reviewed policies and training documents related to use of force, subsequent investigations, participated in riding assignments with officers, and attended a number of community events. This activity allowed us to assess the department's processes, as well as officers' interaction with community members.

## Policy and Procedure

Our review of the use of force policy focused primarily on two HBPD general orders: GO 1.2.6 Use of Force and GO 2.9.4 Firearm and Less-Lethal Weapons. Deputy Chief Miguel Martinez informed us that the HBPD has switched from using a use of force continuum, or matrix, to utilizing, "a system of reasonable objectiveness." According to Deputy Chief Martinez, this system requires officers to gauge a person's level of resistance and respond with sufficient action. i.e. level of force, based on their considerations and, "the totality of circumstances," encountered by the officer(s).

The change to a system of objective reasonableness is consistent with best practices in policing and is guided by the U.S. Supreme Court case *Graham v.*

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*Connor* (490 U.S. 386) and Florida state law. An officer must engage several considerations while making use of force decisions including, but not limited to:

- Seriousness of the crime
- Size, age, and weight of the officer and suspect
- Physical ability of the officer and the suspect
- Whether any weapons are known to be present
- Knowledge of any history of violent behavior
- Tactical advantage of officers, i.e. number of officers present
- Danger to innocent persons
- Types of weapons available for deployment by police
- Identity of suspect(s) and whether they can be apprehended at another time.

The HBPD policy on use of force clearly delineates the reasonable objectiveness standard and mandates, “[t]he officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances. All sworn personnel may only use that force necessary to affect an arrest or to accomplish the police mission...” The actual policy statement however, is in error where it identifies circumstances which would justify the use of force. On page 1 of General Order 1.2.6, Use of Force, paragraph 5, **Policy**, the last sentence is written, *The use of force is justified only in the following instances: when affecting an arrest, to prevent an escape, in self-defense, or for the protection of **citizens** (emphasis added).*

This sentence as written in the HBPD policy inappropriately limits an officer’s authorization to use force when protecting others to only those situations where they are protecting citizens. In reality, police officers are always authorized to use force in an effort to protect themselves and **any other person** from the imminent threat of danger. A police officer’s authority to use force when protecting others is never limited to only protecting the lives and well-being of citizens.

**Recommendation:** *The HBPD should revise the last sentence of the policy statement in General Order 1.2.6, on page 1, in paragraph 5, by deleting the word “**citizens**” and adding the words **any other person(s)**. We recommend that HBPD also revise any G.O., SOP, or procedure that uses the term “citizen” to use the term “resident,” “member of the public,” or “subject,” as appropriate.*

The HBPD General Order and Policy on use of force mandates that officers options fall into three categories: physical control, less-lethal weapons, and deadly force. Other than as noted above, the use of any of these types

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of force is appropriately guided by policy, nonetheless, opportunity for further improvement does exist.

### De-escalation

The HBPD general orders consistently identify appropriate guidelines for the legitimate use of force. However, the document is noticeably absent of any discussion about de-escalation tactics and/or other methods which could be useful in avoiding the necessity to use force. Many situations involving police use of force have resulted in adversity, negative media attention, costly litigation, and may have been altogether avoidable. We sometimes refer to these cases as “lawful but awful.” Unfortunately, the incidents often occur because officers have not been properly trained to understand these situations or are unable to recognize people with special conditions that may present very difficult circumstances. These situations can be greatly exacerbated when substance abuse has also been added to the subject’s mental or emotional condition.

Section IV. FORCE GUIDELINES A. 2. of General Order 1.2.6. Use of Force, does begin to address de-escalation without specifically identifying this strategy. We believe the agency and community would be better served with more robust information concerning de-escalation and better direction for officers. The section contains the following language: *Control may be achieved through advance warning, persuasion, or physical force. While use of force may be needed, reasonable alternatives should be exhausted when time and circumstances permit.*

Current best practices recognize the need for police departments, “to adopt policies and training programs that are designed to improve the handling of...difficult encounters and reduce the chance of force being used unnecessarily,” PERF “An Integrated Approach to De-Escalation and Minimizing Use of Force” (2012) at iii).

**Recommendation:** *The HBPD should revise general order 1.2.6. to address de-escalation and better identify techniques which may help to avoid the necessity to use force. Relevant training should be provided to all members of the HBPD. Members of the HBPD recognized that “lawful but awful” events can have a very negative effect on the agency’s legitimacy within the community. Many officers reported they would welcome such an addition to the general orders and would look forward to receiving training in tactical disengagement. We believe this attitude is encouraging and speaks volumes about the good character of the HBPD.*

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## Quantum of Force

Despite the uptick in deadly force incidents, the amount of force used by HBPD overall has actually decreased over the past four years. Statistics from the AS 400 and OSSI RMS from 2011 to date show that some level of reportable force was used in 2.8% of situations involving a custodial arrest of a subject in 2011-2012, 2.4% in 2012-2013, 2.5% in 2013-2014, and 2.0% in 2014-2015. See attachment. The two predominant uses of force by HBPD officers are ECWs and manual strikes. This downward trend is promising, although it still is on the upper end of the generally accepted range of use of force between 0.5-2.0% in custodial arrest situations. The command staff and all frontline officers should be aware that these rates may also be lower than actual use of force in the field, since current policy requires self-reporting of use of force rather than supervisor response and investigation.

We are confident that the downward trend can continue if HBPD adopts the recommendations contained in this assessment. If it does so, the department's well-trained, skilled officers will use force less frequently, more intelligently, and will have best-in-class accountability systems and technology in place to assess and report force. This is to the benefit of the individual officers, the department, members of the public, and the City.

**Recommendation:** *We strongly recommend the HBPD revise its use of force reporting policy to provide for mandatory reporting of any use of force by HBPD personnel and supervisor response and investigation of same.* Requiring personnel to report their own and any observed uses of force by other HBPD personnel, and supervisor response and investigation including scene evaluation, evidence collection, and witness identification and interviews is consistent with national best practices and will lead to enhanced trust in HBPD by both members of the public and officers involved in uses of force.

## Tactics and Deadly Force

Tactical decision-making is often at the center of an officer's need to use deadly force. Critical review of an officer's tactics before, during, and after a deadly encounter often provides greater understanding of the how and why an event actually occurred. Good police agencies seize these opportunities to identify options and lessons that can be applied in future training. The goal of this type of review is both the reduction of injuries to employees and members of the public, along with minimizing the need to use force, i.e. a more desirable outcome. This is true because police officers face the same or similar situations day after day, sometimes confronting the same or similar circumstances multiple

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times in the same shift. Critical review of incidents helps department and City leaders understand why many of the encounters are resolved with desirable outcomes while, on occasion, a single incident may end in tragedy. Unfortunately, these tragedies may involve the loss of life or a situation where the involved officer(s), and/or members of the public, have been critically injured.

During our review of the use of deadly force by HBPD, one key factor was apparent. Several incidents involved officers approaching suspects who were in a motor vehicle. During some of these encounters, an officer determined it necessary to use deadly force because the vehicle was being used as a weapon against the officer. In other situations, movement by suspects in the car caused the officer to articulate a fear for his/her life and resulted in the use of deadly force. Officers are certainly entitled and obliged to protect themselves or another when they reasonably perceive a threat that may cause serious physical harm or death at the hands of another person. However, in assessing these situations, we are equally obliged to consider whether the tactics an officer employed during that encounter contributed to the risk that officer was forced to confront — a self-created danger.

Police work by its very nature is full of dangerous encounters and risks. History tells us that there are two kinds of risk in policing: necessary and unnecessary. A necessary risk is one where an officer is suddenly and unexpectedly thrust into a dangerous situation, their personal safety is in jeopardy, and the officer must take action in an attempt to protect himself or herself. An unnecessary risk is one where an officer has become complacent or has employed unsafe tactics that have placed the officer in grave danger. This type of risk is unnecessary and should be the focus of training for police officers as well as identified in an agency's policies, procedures, and general orders.

General Order 1.2.6., section I. B. 1., provides examples of when it is appropriate for an officer to use deadly force. One of those examples is described as, "...a subject who tries to run an officer down in a vehicle." Arguably, a motor vehicle can be used as a deadly weapon, however, an officer must be within the forward or reverse operational range of a motor vehicle for it truly to be used as a deadly weapon. When we examine instances where an officer has resorted to the use of deadly force because he or she was the victim of an attempt to run the officer down with a vehicle, we have learned that officers typically have unnecessarily placed themselves in harm's way by standing in front of or behind a running vehicle. Such placement provides a suspect with the opportunity to use the vehicle as a weapon and places the officer at an unnecessary risk of being killed or seriously injured. The unnecessary risk taken by the officer under those circumstances therefore contributes to the danger being confronted by the officer.

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We believe it is incumbent upon the police administration to initiate action that will help to minimize these risks and, where possible, avoid the need to use deadly force. During approach, an officer can avoid life-threatening danger by staying out of the “kill zone” that can be created by a person using a motor vehicle as a weapon. Taking a stance somewhat perpendicular to a motor vehicle or utilizing their patrol vehicle as a barricade provides the greatest protection to an officer against a person using a motor vehicle as a weapon. These types of tactics can alleviate the need to use deadly force for protection from that vehicle.

Furthermore, the use of deadly force is almost certain to result in a complaint against the agency, a claim of some sort for monetary loss, and/or litigation claiming a violation of constitutional rights with a demand for monetary relief - usually in the millions of dollars. Recent events involving the police use of deadly force in North Charleston, SC and Baltimore, MD have resulted in quick settlements in the \$6,000,000 range simply to manage potential greater exposure, when a more rational approach would be to mitigate risk to agency personnel, subjects, and the City by carefully crafting the use of force policy to eliminate unnecessary risk. One could easily argue that a police department’s general order encouraging the use of deadly force against one who was merely trying to flee from officers in his vehicle is irresponsible and contributed to the unnecessary use of deadly force against a subject, thus claiming a municipal liability. We believe this risk can be managed, if not completely eliminated.

The current procedure permits an officer to shoot at or from a moving vehicle if the “[v]ehicle’s occupant is using deadly force...[or]...to prevent death or serious bodily harm to an officer...” This section of the procedure authorizes an officer to discharge his or her weapon at the occupants of a moving vehicle if the vehicle is perceived as being used as a weapon.

**Recommendation:** *We strongly recommend the HBPD immediately revise its use of force policy and procedure to prohibit officers from shooting at a motor vehicle unless the occupants of the vehicle are using or attempting to use deadly force against the officer(s) by means other than the motor vehicle.* Training commensurate with such an order is an absolute necessity and should emphasize officer safety as a primary consideration when making tactical decisions about how best to approach suspects in a motor vehicle. The city of Miami, Florida successfully implemented such an order several years ago, while the New York Police Department implemented this best practice in 1972.

A policy prohibiting shooting at an occupied vehicle, as presented above, is a nationally accepted best practice. Some police agencies that have implemented

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this policy have gone as long as two years without an officer-involved shooting, citing better tactical decisions as the primary reason for a reduction in the use of deadly force.

One must also consider the fact that injuring or killing the driver of a moving motor vehicle creates a condition where the motor vehicle is now in motion without a driver in control and perhaps creates an even greater danger to all involved. In the final analysis, this is a matter of developing good tactical decision-making skills, via training, that reduce the need to use deadly force, helps to minimize the risks to all involved, and assists the City in better managing an almost completely unnecessary yet potentially large liability.

All of these should be critical considerations as police use of force has been the primary issue driving U.S. Department of Justice pattern or practice investigations of local police departments for civil rights violations pursuant to 42 U.S.C. §14141.

## **Training**

The importance of training in any law enforcement agency is manifested in an officer's ability to apply the most current standards of policing. A lack of effective training creates enormous potential liability for the agency. A failure to train officers can give rise to both state and federal lawsuits, and under some circumstances, expose the City to *Monell* or municipal liability, and even bring potential personal liability to departmental or City officials. The U.S. Department of Justice has identified the lack of effective training in use of force as a reason to sustain pattern or practice findings against police departments and their jurisdiction. Where use of force is concerned, officers must be able to make good decisions and apply force in a lawful manner that is commensurate with their training. Understanding this mandate requires ongoing effective training which is based on constitutional and state laws, as well as local ordinances and departmental regulations.

The HBPD utilizes a combination of in-house, FDLE certified instructors and shared resources at a local community college to provide necessary training for their officers. All training conducted by HBPD is developed in coordination with Florida Department of Law Enforcement (FDLE) standards. Use of force training includes classroom instruction that is lecture-based, other scenario-based training, weapons simunitions, a weapons simulator, and live fire at the target range for weapons qualification. Agency members must train with all approved weapons on an annual or biennial basis, depending on the weapon and FDLE requirements. Law enforcement certification maintenance requires 40 hours of training during a 4 year period with weapons training once every 2

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years. This is accomplished by mandating 10 hours of training per year for each officer - a limited amount of training time. Use of force training is conducted every year; Electronic Control Weapons (ECW) training is conducted every year; chemical irritant and asp (baton) training is conducted once every 2 years.

**Recommendation:** *HBPD should consider increasing the amount of annual, in-service training required for each officer. An increase in the amount of training hours would allow the agency to instruct on a variety of important topics including issues that have relevance to southeast Florida police agencies.*

As mentioned earlier in this report, the HBPD has not incorporated any type of specialized training on de-escalation or other important subject matters. During the past three decades, it has become obvious that the criminal justice system, most notably police agencies, has become the caretaker for those who suffer from mental illness. This issue weighs most heavily on law enforcement agencies as police officers are nearly always summoned to the scene of those who are in crisis or are acting out because of their illness. Many police chiefs readily admit their agencies are not equipped to deal with this growing responsibility. The southeast Florida region has experienced more than its share of this dilemma as the warm climate attracts people from around the world, including the homeless and those suffering from some type of mental illness. We believe this is a growing, and critical, issue for the City of Hallandale Beach and its police department. Police agencies throughout the country have implemented crisis intervention training in a successful effort to address the growing myriad of circumstances their officers are called upon to resolve.

**Recommendation:** *The HBPD should implement mandatory training for all personnel regarding de-escalation and minimizing the use of force. As previously discussed, this type of training can provide officers with critically needed skills to minimize the need to use force. The ability to slow down a situation and summon additional officers to the scene, including a supervisor, can often minimize the necessity to use force. Training is a key concept of this type of strategy.*

**Recommendation:** *The HBPD should implement crisis intervention training in both post academy and its yearly in-service training. Our review of the agency, including interviews and observations during riding assignments, clearly indicated the agency is tasked with addressing a number of radio calls involving the homeless, and those living with mental illness and substance abuse. Crisis intervention training is a necessary and practical tool for the agency. The ability to recognize symptoms of mental illness or other crises may help alleviate the need to use deadly force by simply affording officers other options when attempting to resolve*

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tense and emotionally charged situations. To date, the HBPD has not been afforded any of this type training.

Police agencies across the country have found it extremely beneficial to partner with advocacy and professional groups that have much expertise in addressing the mentally ill. The National Alliance for the Mentally Ill (NAMI) is one such entity and has been involved with this phenomenon for several decades. One model that has been extremely successful is the development of crisis intervention teams, where mental health professionals actually partner with beat officers to respond to calls for service. In Cincinnati, Ohio, the mental health professionals are actually housed in the police stations and respond with officers to radio runs involving mentally ill persons, suicides, and those threatening suicide, drug and alcohol crises involving the mentally ill, state sanctioned psychological holds, and other situational crises involving the mentally ill.

This cadre of highly trained professionals is named the Mental Health Response Team (MHRT) and was designed by a committee of law enforcement, mental health, developmental disability and other professionals. It was modeled after the Crisis Intervention Team (CIT) philosophy created in Memphis, Tennessee but has also added its own unique elements. The effort is designed to create more effective and safer interactions between law enforcement officers and persons with mental illness, as well as better relations with the mental health community.

**Recommendation:** *The City and the HBPD should establish crisis intervention teams in collaboration with NAMI or a similar association of mental health professionals. A successful CIT training program for law enforcement officers does not simply involve a collection of presentations on a series of mental illness topics and tactical training. Rather, it must be built on a strong foundation of collaboration between the local law enforcement agency and professional mental health agencies. Likewise, mental health professionals who will participate in such an effort must be afforded an adequate level of police training so they can perform in a safe and effective manner. The training must include a mutual understanding of and respect for the specific skills and procedures of each entity.*

“Many of the most controversial uses of force by police have involved persons with mental illness or other conditions that can cause them to behave erratically and dangerously, such as mental or developmental disabilities, or histories of drug or alcohol abuse. It is critically important that all police officers have an understanding of these conditions - especially the fact that a person’s failure to respond to an officer’s commands may be due to an inability to understand or respond to

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reasonably what the officer is saying...Having Crisis Intervention Teams (as well as a basic level of crisis intervention training for all officers) is preferable...”  
PERF, “Re-engineering Training on Police Use of Force” (2015) at 24.

### Use of Force Training

HBPD officers are required to qualify annually by demonstrating proficiency with their department issued and/or authorized primary and secondary weapons, on the department’s qualifying course. Officers who fail to qualify are provided a second chance to do so. Should an officer fail a second time, provisions are in place to administer 16 hours of remedial training before the officer is afforded a third opportunity to qualify with his or her department issued firearm. A third failure results in the officer being placed in an assignment which does not require the services of a certified law-enforcement officer and the officer’s commander is notified of such action.

**Recommendation:** *The HBPD should implement and mandate that all officers be required to demonstrate proficiency with their firearms twice annually. The second qualification course should be scenario-based and emphasize the use of tactics that will maximize the safety of officers, suspects, and innocent bystanders. Scenario-based training can help the agency ensure the department is providing thorough instruction regarding its use of force general order, policy and procedure. The department should also consider including training on high risk incidents such as active shooter situations, cross-fire situations, cover and concealment, and low-light or night firing courses.*

### Reporting and Review of Use of Force

The department’s general orders direct two different types of processes for review of uses of force — deadly force, i.e. use of force incidents resulting in death or injury and “non-contact shootings,” and all other uses of force.

Current procedure dictates that when an officer discharges his/her weapon, on or off duty, and it results in a death or injury, the officer must immediately notify a supervisor. The supervisor is required to initiate action which results in additional notifications regarding the situational occurrence, then a full-scale investigation of the incident occurs. An officer-in-charge must secure the crimes scene, establish an entry control point, and protect any evidence, witnesses, etc. Investigations are conducted by the Investigative section personnel led by a detective supervisor. The Range Master must respond to the scene and assume control of the officer(s)’ weapon(s). Additionally, Internal Affairs personnel respond to the scene to initiate action that will

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eventually be included in the administrative investigation process. The general order mandates both a criminal and administrative investigation of the incident.

Conversely, if an officer intentionally or accidentally discharges a firearm on-duty or off-duty, except for personal recreational activities or training practice, officers are required, by procedure, to simply contact their supervisor. Supervisors, in turn, are required to immediately contact their division head and Internal Affairs. On-duty incidents require an Incident Report to be completed by the involved officer by the end of the shift. Or, if off-duty, a memorandum addressed to the Chief of Police must be completed within 72 hours of the incident. No other action is required by policy and procedure.

**Recommendation:** *The HBPD should revise General Order 1.2.6 to specifically require the same investigative and reporting process whenever deadly force is used by any member of the department. The same investigative and reporting process should be required whether or not the action results in death or injury.* Current procedure reflects a results-oriented thought process and is dependent on whether anyone is injured or killed as the result of police action. The key issue here is the use of deadly force by a police officer; not whether anyone was injured or killed during a confrontation.

It is important to note, our review and interviews indicated that the same process is used in all instances of the use of deadly force, however this is not accurately reflected in the general order. Accordingly, the policy and procedure in General Order 1.2.6 should immediately be revised to reflect and mandate this practice.

The HBPD currently enlists the use of a Shooting Review Team whose purpose is to ensure compliance with the agency's policies and procedures regarding the use of firearms. According to General Order 1.2.6, section X, the team conducts, "investigation[s] of all duty-related incidents of firearms usage." Our assessment indicated that the Shooting Review Team **reviews** the investigation of such incidents rather than actually conducting an investigation of the incidents. The team considers the incident's nature, judgment used by the officer, and degree of compliance with department policy. After evaluating all available information, the team renders an opinion to the Chief of Police regarding its findings. The findings are also shared with the involved officer(s).

**Recommendation:** *The HBPD should revise General Order 1.2.6, Section X., B. to indicate the Shooting Team's actual duties are to **review** the investigation of all firearms usage rather than to conduct an investigation of these incidents.* This revision would more accurately describe the team's duties and provide clarification of this issue. We have

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further recommendations regarding the Shooting Review Team in the next segment of this report. If that recommendation is adopted, this recommendation can be ignored. If the next recommendations are not acceptable, this change should be effective immediately.

For all uses of force, Section IX of this procedure requires the “Internal Affairs **Sergeant**” (emphasis added) to “review all police incident reports which involve the use of force, Officer Tactical Response to Resistance. This shall include all levels of force.” Internal Affairs is required to review all instances where a member discharges a firearm; whenever a department member takes an action which results in, injury or death of another person; whenever a department member applies force through the use of lethal or less-lethal weapons; and whenever a department member applies weaponless physical force. The review process for non-deadly force consists solely of self-reporting by the involved officer(s) and investigation by the IA unit.

The Shooting Review Team is comprised of the following personnel:

- Chairperson - Major or designee selected by the Chief of Police
- The Investigative Services Division Major or Captain
- The Internal Affairs Sergeant
- The Department Range Master

This collective body is charged with a number of responsibilities emanating from a full review of the incident and “will notify the Chief of Police of the Team’s findings...;” whether further action is warranted; whether no further action is needed; or whether training issues need to be addressed. The Shooting Review Team’s composition is deficient, insofar as no members of the department’s training staff are included in the review team’s membership, despite a training evaluation being one of the critical considerations of the team.

HBPD can do much to increase reviews of both uses of deadly force and non-deadly force by harmonizing these processes and using them for both IA purposes and critical incident review focusing on training, tactics, and policy compliance and opportunities.

**Recommendation:** *The HBPD should revise General Order 1.2.6 by eliminating sections IX, Use of Force Review and X, Shooting Review Team, section XI, Shooting Review Team Members, and section XII, Team Findings. In place of these sections, The HBPD should create a Use of Force Review Board which would be responsible for reviewing all cases involving any use of force. The board should also review all incidents where officers and/or suspects and/or innocent bystanders are seriously injured as the result of police action.*

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A use of force review board should be able to conduct an assessment of use of force incidents based on their experience and collective knowledge of administrative issues as they pertain to fully constitutional policing. As recommended, a group of HBPD commanders would be more prepared to conduct a critical analysis of use of force incidents and related matters than a lone sergeant assigned to IA.

The Use of Force Review Board (UFRB) should consist of the deputy chief, a major, the Internal Affairs Commander, the Training Commander, the Investigations Division Commander, the affected Division Commander, and the Range Master. Other members may be assigned at the discretion of the Chief of Police. We recommend the UFRB meet at least every two months during its first year of existence to ensure a smooth transition from the previous course of business. At the end of year one, an evaluation can be conducted to determine how often the board should meet but, not less than quarterly.

The purpose of the board would be to conduct a thorough and comprehensive analysis of each and every use of force incident including, but not limited to:

- Whether the original contact with the involved person was proper and constitutional.
- Review and analyze the tactical decision-making process employed by all involved officers.
- Review and assess the actual tactics employed by all involved officers.
- Review and assess the performance of any involved supervisory personnel.
- Evaluate all reports regarding the use of force including the IA investigation and any related reports. This review should include whether any parts of the investigation(s) require further clarification.
- Evaluate departmental training as it pertains to the incident.
- Identify and recommend any need for further action, such as revision to general orders, policy, procedure, training, etc.

Above all, the UFRB should conduct an assessment of any pertinent, risk management issues as they pertain to the police department and the City of Hallandale Beach. A full report of the board's considerations should be submitted to the Chief of Police within ten days of the board meeting.

We believe that the establishment of a Use of Force Review Board would further strengthen the IA unit, lead to better and more thorough assessment of all uses of force, identify any deficiencies in training and procedures for remediation, protect the City from unnecessary risk, strengthen and reinforce the

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decision-making skills of HBPD officers, and strengthen the relationship between the City and the many communities it serves.

### **Accountability Systems**

Law enforcement officers necessarily carry with them an enormous amount of power and authority to use force, up to and including the use of deadly force, to accomplish the police mission. Authority to use force legitimately is derived from the people actually served by a police department. This power and authority is unique to law enforcement and therefore requires an immense amount of accountability from the employing agency and individual officers. This is especially true when an officer's actions cause injury or death to another individual.

“On one level [police accountability] refers to holding law enforcement agencies accountable for the basic services they deliver; order maintenance, and miscellaneous services to people and communities. At the same time, however, it also refers to holding individual officers accountable for how they treat individual citizens, particularly with regard to the use of force, equal treatment of all groups, and respect for the dignity of individuals. In certain important aspects, of course, the agency-level and officer-level dimensions of accountability merge” Walker, “The New World of Police Accountability,” (2005) at 7.

Police departments, therefore, have an absolute duty to investigate complaints against their officers in a fair and equitable manner. The ultimate goal must be to identify the truth and follow that truth, no matter where it takes the investigation and the agency.

### **Internal Affairs**

Our review of the HBPD Internal Affairs (IA) process and related General Order 1.5.1, *Internal Affairs (Functions & Activities)* indicated that current practices are administered in a manner consistent with Florida state law and the Florida Police Officers Bill of Rights. The system is designed to protect the integrity of the HBPD. Policy mandates the HBPD accept and investigate all complaints of employee misconduct to determine the validity of allegations and to impose any disciplinary actions which may be justified. It is important to note the internal affairs process is driven by the agency's general orders, policy, and procedure. Our review further indicates the process is conducted in a fair and equitable manner, and is consistent with best practices. However, there is room

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for improvement which can strengthen the system and better serve all affected by this process.

Our evaluation of the Internal Affairs function at HBPD consisted of an analysis of the agency's general orders, policy, procedure, rules, regulations, Florida state law, and the Florida Police Officers Bill of Rights, as each pertains to this subject matter. We also interviewed the current commander of the IA unit and other department personnel. The IA commander was a sergeant in IA at the time of the interview and was the only officer assigned to IA. He has since been promoted to captain and remains assigned to IA as the commander. We reviewed a random selection of cases including those instances where officers had used deadly force during the last six years. This review included listening to the audio recording of witnesses and all involved officers; a review of the written reports, evidence, and any other information included in each case file. We are pleased to report that each case had been completed in total compliance with all agency directives and had been conducted in a fair and equitable manner. We believe the conclusions reached in each case were reasonable and supported by an ample amount of evidence. This is an encouraging observation that should contribute to the legitimacy of the HBPD. However, we believe there is room for improvement of the IA function which will strengthen the process although it is already efficient and effective.

### **Staffing**

Personnel are selected for assignment to the IA unit based upon their performance, experience, investigative skills, work ethic, reputation, and desire to be assigned to this type of duty. These considerations are very much in line with recommended best practices. At the time of our review, the entire complement of personnel assigned to IA was a lone sergeant who reported directly to the Chief of Police. We believe this was a structural weakness in the system as a sergeant cannot be expected to properly advise the chief of police on critical matters requiring thorough administrative consideration.

The original sergeant had been assigned to IA for 5 years and had not received any pertinent training for the first 3 years in this assignment. Ultimately, the sergeant did receive training for this assignment, however, it was not until his fourth year in the unit. The previous IA investigator had been assigned to this unit for approximately 20 years. A third individual reportedly had received some exposure to the IA function as he had been assigned to the unit for a brief period of time. In all, there have been only 3 people assigned to the IA unit over more than the past 20 years.

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Though the IA unit has apparently functioned well with a limited number of personnel assigned, the agency has lost an opportunity to teach other members the considerations involved in the administrative investigation process. Current practice severely limits this knowledge to one individual and deprives the agency of a tremendous benefit that could better prepare individuals for command level positions. The agency also deprives itself of any institutional knowledge should the lone assignee not be available for duty. The administrative investigation process is a critical component of any American police agency and must be understood by all those who participate in the department's leadership.

**Recommendation:** *The HBPD should increase the complement of personnel assigned to IA and ensure the unit commander remains at the rank of captain. The unit should also have two investigators assigned, each at the rank of sergeant. Assigned personnel should receive training from a certified institution to adequately prepare them for the duties commensurate with their assignment. This training should be mandated immediately upon assignment to IA. All assigned personnel should be rotated in and out of the IA assignment on a 3 year cycle and staggered assignments periods. The IA commander should report directly to the deputy chief of police, who in turn reports directly to the chief. The IA commander should also be granted direct access to the chief of police when it is necessary to keep the chief informed of special circumstances or to maintain the integrity of an investigation.*

Training is available to IA personnel at a regional program or at nationally recognized training programs such as the Institute for Police Technology and Management (IPTM) in northern Florida.

Rotation of personnel, including commanders, will allow the agency to provide an exposure of the administrative process to a greater number of people in the organization and create a broader base of institutional knowledge regarding this critical function. Rotation of personnel on a staggered basis will also permit the newest member of the unit to be trained and mentored by the other two officers already assigned to the unit. Ideally, one member of the unit should be transferred each year as their three year tenure comes to an end. Obviously, current assignees may need to stay longer in order to establish an effective rotation. The acquisition of administrative knowledge will better prepare members of the department for promotion into the command structure and help to better serve the organization when future needs arise.

### **Standard Operating Procedure**

Though the IA unit functions in a satisfactory manner, there are no written guidelines which mandate how an investigation should be conducted or what

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information must be included in the IA report. A standard operating procedure for the IA unit would provide guidelines to ensure consistency and thoroughness, when conducting administrative investigations and preparing summary reports.

**Recommendation:** *HBPD should mandate the creation of a standard operating procedure (SOP) that includes specific directives which address the issues necessary to complete a fair and impartial IA investigation and report. An SOP would also provide a comparative basis for conducting audits of the unit.*

### Citizen Complaint Process - Complaint Intake and Investigation

The HBPD policy in General Order 1.5.1 mandates all complaints of employee misconduct be accepted and investigated in a fair and impartial manner. This mandate is consistent with best practice, however procedure is somewhat contradictory to this policy. Section V. A. directs that a complaint packet be given to any citizen who wishes to file a complaint against an employee ***which cannot be adjudicated verbally by the employee's immediate Supervisor (emphasis added)***. Additionally, under section C., 1., procedure provides discretion for a supervisor to ***decide the seriousness of the matter and determine whether the supervisor can resolve the complaint (emphasis added)***.

The inconsistency in policy and procedure regarding the acceptance and recording of citizen complaints provides department personnel the discretion to decide whether they will comply with department policy, and may be a deterrent to members of the public wishing to bring a complaint. This is a dangerous situation and can lead to members of the public having the impression a “cover-up” exists if, and when, their complaint is not accepted. It also deprives the agency of useful information for evaluating officer performance. “The new paradigm for citizen complaints regards citizen complaints as important management information, data that are an important part of accountability... complaints...represent information about officer performance that supervisors need to know about,” Walker, “The New World of Police Accountability” (2d ed. 2014) at 104. The USDOJ recommends that police agencies accept and properly classify all citizen complaints.

**Recommendation:** *The HBPD should revise General Order 1.5.1 to mandate that department personnel accept, record, and properly classify all complaints by members of the public which allege misconduct on the part of any department employee. Accepting and recording all such*

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complaints will provide the agency with information that may be useful in identifying employees who are in need of some type of intervention, based on their performance. This practice will also help to develop a greater sense of legitimacy and more confidence in the agency.

### Disposition Separate from Investigation

The function of IA investigators should be to act only as fact finders. An effective guideline or SOP should clearly dictate that the IA process is designed to investigate all allegations of police misconduct and complete a report that accurately reflects the results of that investigation. The IA investigators should not render an opinion or recommendation for finding at the conclusion of their investigation. This responsibility should be assigned as the responsibility of a disposition panel. The disposition panel should be responsible for recommending a final disposition to the Chief of Police.

The standard dispositions are:

- **Unfounded** - There is no evidence the alleged misconduct occurred.
- **Exonerated** - The alleged activity did occur and the officer's actions were in compliance with department standards.
- **Sustained** - The alleged activity did occur and the officer's actions were not in compliance with department standards.
- **Not Sustained** - There is not sufficient evidence to determine whether the allegations of misconduct are true.

The philosophy of separating the investigation from the final disposition has many advantages. "Separating the two helps to ensure that the investigation is thorough and not cut short by a premature determination that the complaint will not be sustained," Walker (2005) at 91. The practice also relieves the IA sergeant/investigator of the pressure of making command level decisions. Moreover, this type of process can increase the objectivity of an investigation by requiring the IA team to provide an objective, complete, and thorough report of their investigation to an independent panel of senior command staff members. Members of the disposition panel will gain valuable experience in the administrative process by evaluating allegations of misconduct and subsequent investigations. Finally, the IA unit may become a more desirable assignment based on an increased perception of fairness and objectivity in the process.

**Recommendation:** *The HBPD should separate from IA and assign the responsibility for disposition of civilian complaints to a panel of senior level command officers - The Disposition Panel.* The disposition panel should be comprised of the deputy chief, two majors, and two captains.

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This panel should be assigned on a rotating basis and serve for 18-24 months. The deputy chief will remain as a constant member of the panel. The panel may also serve as an advisor to the police chief on matters related to risk management as they relate to the IA investigations.

### External Oversight

Currently, HBPD does not employ any type of external oversight or auditing system of the IA process. The agency is missing an opportunity to inspect and monitor one of the most critical functions in the department. General Order 1.5.1 clearly reflects that the reason for an IA process is to insure the integrity of the agency and to protect the members of its agency from false innuendo. Moreover, IA functions help protect the rights of the public in their expectation of fair and equitable policing. Police agencies are obliged to ensure their IA units are functioning as designed and their reports accurately reflect the results of an investigation. Accuracy is always an essential element of effectiveness.

The USDOJ has routinely mandated the creation of an external oversight function in consent decrees and memoranda of agreement during the past 20 years of pattern or practice enforcement under 42 U.S.C. §14141. Many agencies have embraced this recommended best practice as a means of establishing credibility within their IA units and verifying the agency's commitment to excellence.

**Recommendation:** *The HBPD should adopt an annual external oversight mechanism such as an independent auditor to conduct an annual review of all internal affairs investigations and related reports.*

### Technology

Technology has altered the way we live and provided an enormous opportunity to improve the course of business in our lives. As such, it has also provided an ever-increasing opportunity for us to improve the operating efficiency and effectiveness of our police agencies. The possibilities have affected law enforcement in terms of weapons, analytics, evidence management, personnel management, video surveillance, and a host of other systems. The pace of technological evolution is mind-boggling and each new technological development provides us an opportunity for continuous improvement.

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“The use of technology can improve policing practices and build community trust and legitimacy...[i]mplementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy,” Final Report of the President’s Task Force on Policing in the Twenty-First Century (2015) at 49.

### **Early Intervention Systems**

HBPD provides written guidance to its personnel regarding the duty of supervisors to address performance via formal and informal discipline. More specifically, supervisors are responsible for completing reports for each subordinate as a record to provide a basis for evaluations, progressive discipline, or referral to an employee assistance program. The triggering mechanism for initiating this type of activity is primarily based upon the supervisor’s observations, memory, and further action is dependent upon records that have been kept in an employee’s file. In fact, procedure clearly states that a pattern of behavior or a course of conduct can only be established through a thorough record keeping procedure.

This type of process is common in police agencies throughout the U.S. however, it has also been recognized as being difficult to manage, inconsistent, outdated, and at times undependable. Still, it is a historical attempt to manage activity and performance within a police agency and in the past, has been accepted as a best practice. Technology has provided us the opportunity to improve this practice and, attempts to do so have resulted in the creation of automated Early Intervention Systems (EIS).

In 2001 the Commission on Accreditation for Law Enforcement Agencies (CALEA) adopted a new standard requiring agencies to have an EI system. Standard 35.1.15 reads:

“A comprehensive Personnel Early Warning System is an essential component of good discipline in a well-managed law enforcement agency. The early identification of potential problem employees and a menu of remedial actions can increase agency accountability and offer employees a better opportunity to meet the agency’s values and mission statement” (Walker & Archbold 2014, 141).

These systems are designed to pull together key elements of a department’s accountability process, including use of force reports and citizen complaint data. The system identifies officers who may require some form of

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intervention based on their performance records. The overall goal is designed to improve employee performance.

Technology and automation have created extremely efficient and effective EI systems. The more advanced systems are paperless and document incidents such as uses of force, pursuits, firearm discharges, citizen complaints, auto accidents, sick time usage, lawsuits, and a host of other information specifically tailored to the individual agency. Incidents are routed through the chain of command with review and approval necessary at each step in the process. This process ensures supervisory awareness of an officer's performance and conduct at every level in the organization. An EIS helps to ensure consistent documentation with improved accuracy and completeness. The Palm Beach County Sheriff's Office has implemented this type of technology in its management system.

Hallandale Beach participates in a county-wide effort to collect and share this type of data as well as many other data points unconnected to an EIS function. Throughout our review we were advised that the system permits too much external sharing, has taken an inordinate amount of time to build out and become somewhat operational, albeit with limited functionality, and is insufficient for HBPD's current needs. The current system is inadequate, does not conform to national best practices, and needs to be supplemented with a best-in-class EIS on a near-term (six months) basis.

**Recommendation:** *The HBPD should consider implementing a best-in-class computerized Employee Intervention System.* This system should be separate from the department's discipline system and should be designed to identify employees in need of intervention to prevent future misconduct. "When carefully designed and implemented, early intervention systems can benefit individual officers, police departments, and the community" (IACP 2006, 49).

### **Body Worn Cameras**

Body worn cameras (BWC) have gained momentum in law enforcement agencies over the past few years, mostly as a response to highly controversial incidents involving police use of deadly force. Incidents such as the death of Trayvon Martin in Sanford, Florida and Michael Brown in Ferguson, Missouri have served to raise awareness about police accountability and the potential benefit of recording interactions between the police and the public. Most notably, having a recording of these types of incidents may help to provide indisputable evidence about what actually occurred. This is a substantial improvement over our past reliance on the human memory.

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Recent research has revealed that the human memory is much more frail and less dependable than previously believed true. In fact, researchers at New York University have been tracking the steady decay of what people remember about tragic events such as the bombing of the World Trade Center in 2001. Their research has revealed a 37% distortion rate in the memory of eyewitnesses after only one year. The rate of memory decay is contributed to eyewitnesses being repeatedly asked to recall what they saw and what they remember about an incident. Answers can be influenced by the questions being asked, news accounts, discussions with other witnesses, and simply time. According to the Innocence Project, about 75% of false convictions that are later overturned are based on faulty eyewitness testimony - *New York Times*, 2012.

Police officers are not exempt from these findings. In fact, it is not unusual for a police officers to be called to court in a civil or criminal trial and being asked to testify about an incident that happened one, two, or three years ago, or even longer. This type of scenario often arises where officers and their jurisdiction have been named in a lawsuit alleging unconstitutional behavior, after an officer has been involved in a deadly use of force incident. An audio/video recording of the incident would obviously be a benefit to all involved in such a situation and may help to resolve any claims made subsequent to the incident. On a lesser scale, BWC can be expected to assist in the resolution of complaints against police officers. This is especially true in one-on-one situations where no other evidence exists and the investigation is otherwise based on accusation/denial.

Generally, there are four perceived benefits regarding the deployment of BWC in police agencies:

- BWC have a positive or civilizing effect on both police officers and the public, resulting in improved behavior.
- BWC improve the agency's ability to more accurately collect evidence of encounters between the police and the public. Moreover, police agencies can also collect a higher quality of evidentiary material at crime scenes simply by recording the entire event from start to finish.
- BWC provide greater opportunities for training based on real-life experiences and better supervision based on real-time reviews of officer performance.
- BWC can increase the level of transparency for an agency and help to improve the public's view of a department's legitimacy.

Substantial evidence does exist that would support all or part of these perceptions. The City of Rialto, California Police Department experienced an 87.5% reduction in citizen complaints and the Pittsburgh Police Department saw

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a decrease of 74% in citizen complaints during the first year of deployment with BWC. Additionally, The Mesa, Arizona Police Department experienced a 75% drop in police use of force while the San Diego Police Department experienced a 47% reduction in use of force after approximately, a one year deployment of BWC. Similar results have been experienced in police agencies across the United States.

Body worn cameras are, clearly, an important step toward increased accountability as the public demands greater transparency from their law enforcement agency. As such, the deployment of BWC can have a direct impact on the legitimacy of the HBPD. Legitimacy is earned by winning the trust and confidence of the people being served by the Hallandale Beach Police Department. Perhaps no other technological development in the history of policing has provided a greater opportunity to showcase the efforts of our police officers in serving the community than BWC.

It is extremely important to note that during our town hall meetings with Hallandale Beach residents, the most often mentioned issues of concern about the HBPD were:

- An expressed desire for better relationships between the police and the public.
- Officers unnecessarily pointing their weapons at people.
- The citizen complaint process not adequately addressing public concerns.
- Numerous requests for Body Worn Cameras on police

Though there were other matters expressed by the residents of Hallandale Beach, including a high number of positive comments about the agency, it is quite obvious the deployment of BWC would serve to address these matters, almost immediately. The potential benefit of deploying BWC in progressive police agencies is undeniable. There are additional technologies in development and coming online as well that will automatically engage BWCs and log removal of items from an officer's duty belt and integrate with current and future EISes. HBPD should carefully evaluate any such technologies as they become available to determine how they may help the agency and City reinforce transparency, accountability and public trust.

To its credit, HBPD has begun moving towards use of BWCs, supported by the City Commission and Administration.

- **Recommendation:** *The HBPD should strongly consider implementing the use of body worn cameras for all uniform personnel, including SWAT.* The widespread adoption of BWC would signal an obvious commitment to improving the overall effectiveness and efficiency

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of the agency. The Miami Beach Police Department has recently committed to employing body worn cameras in their agency, spurred by a similar assessment of its operations in 2014.

### **Next Steps**

This report is a series of findings and recommendations. It is a 30,000-foot view of the Hallandale Beach Police Department, and is intended to identify key areas for attention, investment, and improvement.

The Hallandale Beach Police Department is well-run, with committed, effective leadership throughout the agency. It needs to continue significant and transformative change to become much more effective and to reinforce its legitimacy with the many communities of Hallandale Beach. The department's personnel are its single biggest asset. They are clamoring for the opportunity to use their knowledge, skills, training, and ideas to improve the agency and make it realize its true potential. The commitment by the City Administration and Commission to provide the resources that the department needs to engage in this process of continuous improvement to serve the City is commendable, and critical. The department, its leadership, and the City have the capacity to engage in strengthening the department and making it a beacon agency in southeast Florida, and both sworn and civilian personnel have the desire, dedication, and discipline to make that a reality.

## USE OF FORCE INCIDENTS

<b>TIME FRAME</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>	<b>FY 2014 to 08-31-15</b>
<b>BATON</b>	0	0	0	0
<b>BEAN BAG</b>	0	0	0	0
<b>FIREARM</b>	4	3	3	0
<b>K9 CONTACT</b>	3	0	2	1
<b>MANUAL STRIKES</b>	9	13	14	13
<b>OC SPRAY</b>	2	0	2	1
<b>PEPPERBALL</b>	0	0	0	0
<b>TASER</b>	12	8	13	9
<b>MULTIPLE *</b>	4	6	3	0
<b>Total Number of Use of Force Incidents</b>	34	30	37	24
<b>Total Number of Custodial Situations</b>	1,174	1,244	1,437	1,182
<b>Percentage of Use of Force Incidents in relation to Custodial Situations</b>	2.8%	2.4%	2.5%	2.0%

\* Once the AS 400 Report Management System was replaced by the OSSI Report Management System, in March of 2014, the multiple category in the use of force field began to be recorded only as the highest use of force used during a particular incident. For example: an incident where a baton was used in conjunction with manual strikes would be recorded as a baton in the use of force field. Previously the two uses of force (baton & manual strikes) would have been categorized as a multiple in the use of force field.