

COOLIDGE POLICE DEPARTMENT		
	<p style="text-align: center;">CHAPTER 1</p> <p style="text-align: center;">LAW ENFORCEMENT ROLE AND AUTHORITY</p> <p>CALEA Standard(s):</p>	<p>General Orders</p>
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1.1 State of Arizona Public Employee Loyalty Oath A.R.S. §38-231

Every Department employee shall take the Arizona Loyalty Oath as part of their employment with the City. The oath reads as follows:

“I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of _____ (name of office) according to the best of my ability, so help me God (or so I do affirm).”

1.2 Law Enforcement Code Of Ethics

All sworn employees of the Police Department shall abide by the tenets of the Law Enforcement Code of Ethics:

“As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

“I will keep my private life unsullied as an example to all; maintain courageous calm in the face of dangers, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

“I will never act officiously or permit personal feelings, prejudice, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and

appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence, and never accepting gratuities.

“I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession ... law enforcement.”

1.3 Jurisdiction and Authority

There are three sovereign jurisdictions within the United States, these are federal state and tribal governments.

A. Pursuant to Coolidge Code section [5-2-4 Charter, Code or Ordinance reference], the Department is responsible for providing law enforcement services within the jurisdictional limits of Coolidge.

B. Pursuant to A.R.S. §13-3871, the authority of an Arizona peace officer extends to any place in the State, with one exception. An officer may not stop a person solely based on reasonable suspicion of criminal activity outside of the jurisdiction without the prior consent of the chief law enforcement in the jurisdiction, or that person's authorized representative.

C. As required by Arizona law, in order to exercise the authority of a peace officer, a person must be certified by or exempted from certification by AZPOST. All Department sworn personnel shall be AZPOST certified.

D. Arizona certified peace officers have the authority to:

- 1. make full custody arrests for felonies and misdemeanors under state law, unless arrest authority is exclusively granted to others;**
- 2. cite and release persons arrested for criminal misdemeanors, as authorized by law;**
- 3. detain persons for civil traffic matters under A.R.S. Title 28;**
- 4. execute search warrants.**

E. An officer is governed by General Orders at any time the officer is exercising police powers or functioning as a peace officer.

1.4 Interrogations and Confessions

1.4.1 Fifth Amendment

The Fifth Amendment to the Constitution provides, among other rights, the right of a person not to be a witness against him or herself. This right is known as the right against self-incrimination. The U.S. Supreme Court has determined that the right against self-incrimination means that a person in the custody of the police is entitled to be warned of the right to remain silent and the right to an attorney prior to police questioning. These are known as the *Miranda* rights.

A person is also entitled to make a voluntary choice regarding any discussion with the police, and may not be forced to talk to the police or to confess to a crime.

1.4.1.1 *Miranda* warnings

A. When *Miranda* warnings are required, they should be read directly from the officer's rights card, as follows:

You have the right to remain silent.

Anything you say may be used against you in a court of law.

You have the right to the presence of an attorney to assist you prior to and during questioning, if you so desire.

If you cannot afford an attorney, you have the right to have an attorney appointed for you prior to questioning.

B. An officer shall read *Miranda* warnings to a person when a person is both in custody and being interrogated.

1. A person is in custody when a person has been formally arrested or is in circumstances which would lead a reasonable person to believe he or she was in custody. The determination of whether a person is in custody for purposes of *Miranda* depends on the totality of the circumstances. A person is in custody for *Miranda* purposes when:

- the person has been actually placed under arrest, or
- the person's freedom of movement has been restrained to the degree associated with a formal arrest (i.e., handcuffs, guns, lockups, etc.).

2. Interrogation occurs when an officer:

- asks direct questions which are likely to elicit an incriminating response, or
- says something or performs some action that is reasonably likely to elicit an incriminating response (known as the functional equivalent of interrogation).

C. There are exceptions to the requirement to read a person who is in custody *Miranda* warnings prior to asking questions. The courts have determined that the warnings are not required to be read in the following situations:

1. When public safety is paramount. The public safety exception is limited and applies only when public safety is paramount and it is necessary for the officer to act as quickly as possible. When an officer arrives at the scene of a violent crime, for example, he/she may ask those on scene if there is anyone who needs immediate medical assistance without first reading *Miranda*. Similarly, the officer who chases a suspect known to be armed through a public area, but finds the person to be unarmed upon arrest, may immediately ask what happened to the gun. Officers must be aware that this exception is permitted only when absolutely necessary – once the danger is eliminated, no further questions may be asked.
2. At traffic stops. *Miranda* warnings do not need to be read to persons stopped for traffic violations, unless the stop involves a crime, such as a DUI. *Miranda* is not required for the initial stop and questioning, however the person should be read their *Miranda* warnings if the person is placed in custody and before interrogation.
3. When a person voluntarily enters a police station, or telephones a police officer, and makes a statement or confession. Until the person is taken into police custody, *Miranda* rights are not required.
4. When a person who is in custody makes voluntary or spontaneous statements. Such statements are admissible as evidence even though *Miranda* rights have not been read, even when made by a person who is in police custody. Officers may not ask clarifying questions about volunteered or spontaneous statements in the absence of a valid waiver of *Miranda* rights. If rights have not been read, or if the person has invoked his or her rights, the officer should simply document the statements made without asking any follow-up questions.

5. During the initial questioning at an investigative detention (Terry stops). Even though a person subject to a Terry stop is not free to leave, the courts have held that Miranda does not apply until an arrest is made or the person's freedom of movement is limited to a degree commonly associated with an arrest. The initial few questions at an investigative detention, to determine whether criminal activity has occurred or is ongoing, do not require Miranda.
6. When asking routine booking questions. Miranda warnings are required only when a person is being interrogated about a crime. Routine booking questions are not considered interrogation.
7. When collecting handwriting, voice samples and/or other physical evidence. Miranda only applies to testimonial communication; it does not apply to physical evidence. As long as the officer does not interrogate the person while collecting the physical evidence, Miranda warnings are not required.

1.4.1.2 Invocation of Miranda rights

Once a person invokes his/her rights, officers are to immediately stop questioning the person.

A. Invocation of right to silence.

If a person invokes the right to silence, the interrogation must immediately be stopped. No further questioning may take place unless the person changes their mind, either on their own or after a later request by the officer.

1. A person may change their mind about invoking their right to silence. If the person changes his/her mind and seeks to speak with the officer again, the officer may speak to and question the person but must first reread the *Miranda* warnings to the person and have the person waive their rights.
 - a. An officer may seek to reinitiate questioning. If a person invokes their right to silence, an officer may approach the person after a reasonable break in questioning (at least two hours), reread *Miranda*, and seek a waiver from the person.

b. The right to silence is not offense specific. The right to silence, once invoked, applies to questioning about all crimes, not just the one the person has been charged with committing.

B. Invocation of right to counsel.

1. If a person invokes their right to an attorney, the interrogation must immediately be stopped.

a. A person may change their mind about invoking their right to an attorney. If the person changes his/her mind and seeks to speak with the officer again, the officer may speak to and question the person but must first reread the *Miranda* warnings to the person and have the person waive their rights.

b. Once the right to counsel is invoked an officer may not approach the person to try to get the person to change their mind. Further questioning is prohibited unless:

- 1) the suspect's attorney is present, or
- 2) the person initiates the conversation and waives the right previously invoked, or
- 3) the person is released from custody (or, if the person remains in jail or prison, is released into the general population) for at least 14 days, the officer rereads *Miranda* warnings, and the person waives the right previously invoked, or
- 4) the person has been sentenced on the crime charged.

1.4.1.3 *Miranda* rights waiver.

A. A person may waive their rights with a written waiver, a verbal waiver, or through conduct which indicates a waiver. For example:

1. A person may waive their rights by clearly stating that they understand their rights and waive their rights. At that point, an officer may begin asking questions.

2. A person may waive their rights by simply answering questions once the rights have been read.

3. A person may make a conditional waiver – “Depends on the question,” for example. At that point, an officer may begin asking questions. If the

person indicates they do not wish to answer a question, officers may continue with other questions, until the person states they do not want to answer any questions or requests an attorney.

4. A person may respond by saying something that is unclear or equivocal. Such statements should be clarified before questioning begins (or continues). A person might say, for example, "I don't know, do you think I need an attorney?" or "Maybe I should just wait and talk to you later," or "Hey, I don't have to answer your questions if I don't want to." These types of statements should be clarified by the interrogating officers. Officers should ask whether the person wishes to answer questions or not.

B. Officers should not offer advice or make any other comments about whether an attorney is needed.

1.4.2 Voluntariness

Confessions are presumed by the courts to be involuntary. Therefore, in addition to meeting *Miranda* requirements, an officer must be able to demonstrate that a confession was not coerced, that it was freely given and that it was not the result of duress or confusion. Officers shall not use coercion, threats or promises to elicit confessions or admissions. Officers shall not engage in excessively long interrogations without breaks for the suspect's personal needs, e.g., food, rest and use of the restroom facilities. Interrogation techniques should take into consideration the person's age, mental capacity, drug or alcohol impairment and general health.

1.4.3 Juvenile interrogations

A. Juveniles have the same rights under *Miranda* as adults. In determining whether a juvenile is in custody for purposes of *Miranda*, the officer should consider the fact that the person is a juvenile. If the officer believes a juvenile, based on the juvenile's age, would believe he/she is in custody, the officer should read the juvenile *Miranda* warnings.

B. A parent may invoke a juvenile's rights under *Miranda*. The law does not require a parent to be present at the interview of a juvenile. However, the courts will consider the absence of a parent when determining whether statements

made by the juvenile are voluntary and admissible. Unless the parent is a suspect or a co-defendant, an officer shall:

1. make a reasonable effort to notify parents of the arrest of a juvenile.
2. permit an in-custody juvenile who asks to call a parent to do so.
3. ask, prior to the start of any questioning, if the juvenile wants a parent, guardian or custodian present during the interview and, unless time is of the essence, delay a reasonable period of time for the person to arrive.
 - a. If a parent refuses or is unable to respond in a reasonable time, inform the juvenile and clarify whether they are willing to answer questions without the parent being present.
 - b. If a parent is being disruptive during the interview, the parent may be asked to leave the interview. The officer must then clarify with the juvenile whether they are willing to answer questions without the parent being present.
4. if the juvenile does not want the parent to be present during questioning, and the juvenile appears to have the maturity and experience to reasonably make such a decision, exclude the parent from the interview.

C. Officers have an obligation to ensure that the juvenile understands his or her *Miranda* rights and waives those rights voluntarily. The courts have a heightened concern with the voluntariness of confessions by juveniles. An officer should not interrogate a juvenile if the officer believes the juvenile is incapable of intelligently understanding their rights. Officers shall:

1. use or complete the form required by the prosecuting attorney or court for juvenile *Miranda*, if a specific form is required by the local prosecution office or court; if none, advise a juvenile of *Miranda* rights following the same guidelines for an adult interview or interrogation.
2. if further explanation of the rights is necessary, thoroughly document the explanation that was provided in the officer's report, or electronically record it.

3. advise the juvenile, when applicable, that the juvenile either may be, or will be, tried as an adult. See A.R.S. §13-501.
4. limit the duration of the interview to a reasonable period of time (not to exceed two hours without supervisory approval).
5. limit to two the number of officers present during the interview (under normal circumstances).

1.4.4 Sixth Amendment Right to Counsel

A. The Sixth Amendment to the Constitution provides, among other rights, that a person has the right to the assistance of an attorney whenever a person is charged with an offense that may result in jail time (a loss of liberty). This right to an attorney begins when a person is indicted for a crime, a complaint is filed for a criminal offense, or a person has an initial appearance on a criminal case. This right to counsel means, among other things, that the person is entitled to have an attorney present during any dealings with police or prosecutors concerning the pending charges.

B. In Arizona, formal adversary proceedings begin once the person has had an initial appearance or has been indicted. After a person has been indicted or had an initial appearance, officers may question the person in the following circumstances:

1. the person's attorney is present.
2. the questioning relates to a different crime than the one for which the person is facing charges.
3. the person is in custody, has not invoked the right to counsel, is advised of and waives the person's right to counsel (Miranda warnings should be read to the person).
4. whether or not in custody, the person initiates the conversation with the officer, is advised of and waives their right to have an attorney present.
5. once the person is released from custody (or, if the person remains in jail or prison, is released into the general population) for at least 14 days. The officer may approach the person, remind him or her of the right to counsel, and seek to question the person.

1.4.5 Documenting Interrogations (see 41.40)

A. During any investigation of a violent crime against persons, officers shall electronically record (audio or video) the complete interrogation of all suspects. In all other criminal investigations, the complete interrogation of a suspect should be electronically recorded (audio or video) if feasible to do so.

B. When recording equipment is used, it should be activated at the beginning of any interrogation of the person, and should include the reading of rights and the waiver of those rights. Any break in the recording (to adjust the recording equipment, to take a break, etc.) should be explained on the recording. The recording equipment should be reactivated immediately upon resuming the interrogation.

C. All recordings shall be preserved as evidence, following department evidence procedures, whether or not the recording has been transcribed. The officer doing the interrogation shall include in a police report that the interrogation was recorded and that the record was preserved as required.

D. Any problem with the recording equipment will be fully documented in the report.

1.5 Search and Seizure

A. The Fourth Amendment to the U.S. Constitution guarantees citizens the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. In addition, Article 2, §8 of the Arizona Constitution provides: "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." Arizona and United States Supreme Court decisions regarding searches and seizures place the responsibility on the police to ensure that citizens' Fourth Amendment rights are respected and not violated.

B. Officers shall observe constitutional guidelines, as interpreted by the U.S. Supreme Court, the Ninth Circuit Court of Appeals and the Arizona courts, when making seizures of persons or property and when conducting searches of persons or property. The law of search and seizure is announced by court decision and continues to develop. The guidelines in this policy are intended to assist officers in their application of the law; officers are required to maintain current training and are expected to stay informed in the area.

1.5.1 Reasonable Suspicion

Every officer who conducts a stop shall be prepared to articulate the specific factors that provide the justification for the stop. The elements of reasonable suspicion include:

Facts and circumstances that would lead a reasonable police officer to suspect that some criminal activity is taking, will take, or has taken place, and facts and circumstances connecting the person under suspicion with the suspected criminal activity.

Reasonable suspicion may arise out of a contact, or it may exist independently of a contact.

1.5.2 Probable Cause

An officer may also stop a person based on probable cause; the officer must be able to articulate the specific facts that comprise probable cause to stop or arrest a person. Probable cause to arrest is defined as:

Facts and circumstances, and reasonable inferences from those facts and circumstances, that would lead a reasonable person to believe a crime is being, has been or will be committed and that the person to be arrested is committing, has committed or will commit that crime.

To have probable cause to stop or arrest someone is to have facts sufficient to demonstrate a “fair probability” that the person has committed or was involved in the crime.

1.5.3 Seizures of Persons

The Fourth Amendment prohibits unreasonable seizures of persons or property. With regard to seizures of persons, the United States Supreme Court has determined that an officer may seize a person when the officer has *reasonable suspicion* or *probable cause* to believe that the person is engaged in criminal activity.

1.5.3.1 *Contacts (Voluntary) and Stops (Not Voluntary)*

A. An officer may initiate a voluntary *contact* at any time, for any reason and in any place the officer has a right to be. A contact is not a seizure, stop or arrest, but rather is a consensual interaction between an officer and a person.

B. Persons contacted shall not be detained against their will or searched without their voluntary consent. An officer may not use force or coercion in initiating a

contact or in attempting to obtain cooperation once the contact is made. Officers shall act in a professional and courteous manner. A person who does not respond to the officer's greeting or approach must be allowed to go on their way. Restraining the person in any manner converts the contact into a stop.

C. A *stop* is considered a seizure under the Fourth Amendment and occurs whenever a person is detained by a police officer. An officer may stop a person if the officer has reasonable suspicion or probable cause that the person has committed, is committing, or is about to commit a crime or a civil traffic offense. Officers shall make all stops in an objectively reasonable manner, which may include a verbal request, an order, or the use of physical force.

D. Vehicles may also be stopped based on reasonable suspicion or probable cause. A vehicle may be stopped for investigation if the officer has reasonable suspicion or probable cause to believe the driver or occupants are involved in criminal activity or have committed a traffic offense. The driver and passengers may be ordered out of the vehicle or ordered to remain within the vehicle.

E. A marked vehicle should make the stop unless none is available or the time required for the marked unit to respond would be excessive, or if waiting for a marked unit would jeopardize an arrest or investigation. Generally, officers driving unmarked police vehicles while not wearing a police uniform will not attempt to make vehicle stops.

1.5.3.2 Conduct during a Stop

A. The courts, in determining whether the stop was reasonable and therefore lawful, will consider every phase of a stop.

B. A person may be detained at or near the scene of a stop for a reasonable period of time. The length of a stop may not exceed the time necessary to determine whether or not a crime or traffic offense has been committed and whether the person will be arrested or released.

C. Officers shall act professionally and courteously toward the person stopped. Officers not in uniform making stops shall identify themselves as law enforcement officers as soon as practical. Officers shall explain the reason for the stop.

D. Officers may question a detained person for the purpose of obtaining name, address, and an explanation of presence and conduct. The person may not be

compelled to answer those or any other questions. See 1.5.3.3 regarding when the failure to state one's true full name or to produce identification may result in a person's arrest under Arizona law.

E. Officers shall not search a subject who has been stopped based solely on reasonable suspicion of criminal activity except when there is justification to perform a frisk or when the person consents to a search.

1.5.3.3 Requesting Social Security Number Information

A. The Federal Privacy Act of 1974 requires that before requesting a person's social security number (SSN), the person must be provided with all of the following information:

1. whether providing their SSN is voluntary or mandatory,
2. the statutory authority for making the request, and
3. the purpose for which the information will be used.

B. Completion of the *Arizona Traffic Ticket and Complaint* form requires the driver's social security number. Persons who are being cited for violations of Title 28 shall be advised that:

1. providing their SSN is required by Arizona law and Arizona Supreme Court Rule, and
2. the SSN is used to ensure accurate record keeping in the administration of driver's license and vehicle registrations systems.

The social security number shall not be entered on the copy of the citation provided to the person.

C. Before requesting an SSN for any citation issued for violations other than Title 28 statutes, the person shall be advised that:

1. providing their SSN is voluntary and requested as a matter of Department policy, and
2. the SSN is used to ensure accurate record keeping.

D. No action shall be taken against a person who refuses to provide a social security number, even if it is required for a Title 28 violation as described above.

If a person refuses to provide a social security number, the officer shall write “refused” in the space provided for the number on the form or report.

1.5.3.4 Field Interviews

The purpose of a field interview is to assist in the investigation and prevention of crime.

A. Officers shall conduct a field interview whenever a stop is made and may conduct a field interview when a contact is made. A field interview shall be conducted with professionalism and courtesy. Reasonable questions posed by a person shall be answered. The officer shall explain the reason for the contact or stop if asked to do so. Officers not in uniform should fully identify themselves as police officers and shall exhibit their badges or credentials prior to initiating any field interview. All officers, whether or not in uniform, shall furnish a person with their name and identification number upon request. Required department documentation shall be completed.

B. If an individual asks for a copy of the field interview report, the officer shall provide the person, in writing, the date, time and location of the field interview. The person shall be advised that he/she can present that information to the Records Section and a copy of the report, if one is made, will be made available to him/her in accordance with the existing records release protocols.

1.5.3.5 Arrests

An arrest is a seizure and occurs when a person is taken into custody for the purpose of criminal prosecution or interrogation, and is not free to leave. An arrest must be based upon probable cause. See [1.6](#) for additional information on arrests.

1.5.3.6 Requesting and Requiring Identification

A. Arizona law provides that, when an officer has reasonable suspicion that a person has committed a criminal offense, the person must state the person’s true full name. If the person refuses to do so, the law requires the officer to advise the person that his or her refusal to answer is unlawful. If the person continues to refuse to provide his/her true full name, he/she is subject to arrest for a violation of A.R.S. §13-2412.

B. When the person has been operating a vehicle, the officer may demand to view certain documents (such as operator's license and vehicle registration). The statutory requirement in Arizona law to provide identification applies only to those

who are operating a motor vehicle. A.R.S. 28-1595.B (28-1595.C has been held unconstitutional and currently cannot be enforced).

C. Officers may request a person to produce identification, but people are not required to carry or produce identification (with the exception of the 2 statutes above). When an officer asks a passenger/s in a lawfully stopped vehicle their name or to see their identification and the person/s refuses, ignores or otherwise does not comply with the request, the officer should not prolong the stop to determine the identity of the passenger/s unless there is RS or PC of criminal activity for the passenger/s.

1.5.4 Seizures of Property

A. Property may be seized pursuant to a search warrant that particularly describes the place to be searched and the item to be seized, and provides authority for the item's seizure.

B. Property that is contraband, evidence of a crime, or any item subject to seizure, may be seized by an officer without a warrant if the property is in plain view and if the officer is in a place the officer has the right to be. This seizure is lawful because a person has no right of privacy in an item that is in plain view.

C. In order to be considered an item in plain view, the item must be immediately apparent to the officer as subject to seizure simply by looking at the item. In other words, the officer must have probable cause to believe the item constitutes evidence or contraband. An officer may not manipulate the item or move it in any way; doing so is a search under the Fourth Amendment.

1.5.5 Searches

A. The Fourth Amendment has been interpreted by the Supreme Court to require a search warrant prior to any search performed by a law enforcement officer, or an officer's agent, of a person, or of an area or item in which a person has a reasonable expectation of privacy. It is also considered a search when the government physically occupies private property for the purpose of obtaining information (such as placing a GPS device on a vehicle).

B. No search may be performed without a warrant, unless the search can be justified by one of the exceptions to the warrant requirement. A search warrant is the preferred manner in which to conduct a search, but searches conducted within the guidelines of an exception to the warrant requirement are lawful and admissible.

1.5.5.1 Reasonable Expectation of Privacy

It is a search under the Fourth Amendment when an officer examines those things or areas in which a person has a reasonable expectation of privacy. The examination of an item or area in which a person has no reasonable expectation of privacy is not a search under the Fourth Amendment and is not regulated by the Fourth Amendment. Examples of areas/items in which there is no expectation of privacy include:

Garbage - When a person places garbage by the curb, or discards garbage into a communal dumpster, there is no longer any reasonable expectation of privacy in that garbage. Therefore, no Fourth Amendment protection is implicated by a search of that garbage.

Abandoned Property - A person who abandons property by voluntarily relinquishing control has surrendered any privacy interest the person may have had in the property. Such property is subject to search by an officer without a warrant.

Open Fields - An open field is defined by the Supreme Court as any unoccupied or undeveloped area outside of the curtilage of a home. The area that is considered an open field is not subject to a reasonable expectation of privacy. A search of an open field is therefore not governed by the Fourth Amendment.

Personal Characteristics - A person has no reasonable expectation of privacy in those items that the person subjects to the plain view of others. Examples include a person's voice, handwriting or personal appearance. Personal characteristics that are not subject to public examination (blood content, scrapings under a person's fingernails, etc.) are items in which a person has a reasonable expectation of privacy.

Dog or Human Sniff - Sniffing the air around a person or property that is in a public place or a place open to the public is not considered a search, as there is no reasonable expectation of privacy in the air.

1.5.5.2 Searches Not Subject to Fourth Amendment Protection

Not every examination of a person or their property is a considered a search. For example:

Visual Aids or Photographic Equipment - The use of flashlights or photo surveillance to view or examine property that is otherwise open to public view is not considered a search, as it simply enhances the officer's senses using equipment that is generally available to the public. Use of specialized equipment not generally available – the use of heat sensing equipment on a residence, for example – is considered a search, and is subject to the Fourth Amendment.

Plain View - This is not a search issue, but rather a seizure issue, since no search is performed. When a police officer sees an object in "plain view" and there is probable cause it is evidence, contraband, or otherwise subject to seizure, the officer may seize it, as long as the officer can do so without reaching into an area in which the officer has no right to be and as long as the officer does not move or manipulate the item to establish the probable cause.

Search by Non-Government Agent - The Fourth Amendment does not provide protection against actions of private persons. Property seized by private persons, in a manner that would otherwise be illegal if seized by a government agent, may still be used by an officer in a criminal investigation. However, an officer may not use a non-officer as an "agent" to search if the officer would not be authorized to conduct the search.

1.5.6 Search Warrants

(Note - see [1.5.6.4](#) for tracking device search warrants and [1.5.6.5](#) cell phone tracking device search warrants)

A. A search warrant may only be issued based upon probable cause and must be supported by an affidavit naming and describing particularly the property or persons to be seized and the persons and/or premises to be searched. When applied to search warrants, the probable cause inquiry is focused on two separate questions:

1. First, is there probable cause to believe that the items sought are subject to seizure (evidence, contraband, instrumentalities, or fruits of the crime)?
2. Second, is there probable cause to believe that the items sought will be found at the location to be searched?

B. By statute, a search warrant may be issued to:

1. recover stolen or embezzled property,

2. seize property used as a means of committing a public offense,
3. seize property in the possession of any person who intends to use it as a means to commit a public offense,
4. seize property in the possession of another to whom it may have been delivered for the purpose of concealing or preventing it from being discovered,
5. seize property that shows or tends to show that a particular offense has been committed, or that a particular person has committed an offense,
6. seize a person who is the subject of an outstanding arrest warrant,
7. search and inspect property when done so by an appropriate official in the interest of public health, safety, or welfare as part of an inspection program authorized by law.

C. The affidavit for a search warrant presented to a magistrate shall be based on the personal knowledge of the applicant or another peace officer, reliable information from a person who is named in the search warrant, and/or information received from a confidential informant whose reliability shall be established at the time the warrant is issued. The officer/affiant shall document facts that amount to probable cause for each location, item, and person to be searched or seized.

D. The officer/affiant shall precisely (“particularly”) describe those premises to be searched, especially those composed of apartments, duplexes, or any places where more than one family or unrelated people live. The affiant should always list the address, unit/apartment number, etc., if available. The description should be detailed enough that another officer can find the location without the address.

If there is probable cause that a vehicle on the premises contains an item(s) subject to seizure, the vehicle must be listed and described as specifically as possible given the information known to the officer. A warrant to search premises does not automatically extend to include the search of outbuildings or a person at the premises at the time of the search. If officers have probable cause to search certain persons who may be present at the premises, the officers shall include those persons and the probable cause to search them in the affidavit and warrant. If a person is named in the warrant, he/she should be specifically described. When a description is fairly generic or when multiple people at the location could match the description, officers should attach a photograph (if available) and/or list the officers who will be present who have seen the named person(s) and can identify the named person(s).

E. When drafting an affidavit specifically requesting a nighttime search, the officer must be able to allege that there is good cause for searching then, rather than waiting until daytime. Daytime is anytime between 0630-2200 hours.

F. An officer seeking a no-knock warrant must specifically articulate, in the affidavit, the reasons a no-knock entry is necessary and have the judge approve a no-knock entry in the Search Warrant. The affidavit must include facts demonstrating that an unannounced entry would endanger the safety of any person or would result in the destruction of any of the items described in the search warrant.

G. A no-knock entry may be conducted without the judge approving a no-knock entry in the Search Warrant. This should only be done when the justification for the no-knock entry was not known at the time the warrant was signed. The reasons for an unannounced entry are that an announced entry would endanger the safety of any person or that it would result in the destruction of evidence.

H. The officer drafting an affidavit to obtain a search warrant shall submit the completed affidavit to the officer's supervisor for review and approval prior to submission to the magistrate.

1.5.6.1 Obtaining a Search Warrant

A. A search warrant may be obtained from any magistrate in the State of Arizona, including Supreme Court Justices, Court of Appeals and Superior Court Judges, Justices of the Peace and Magistrates. A completed *Affidavit for Search Warrant and Search Warrant* shall be presented to the magistrate who, if satisfied that probable cause exists, will sign the warrant. Only sworn testimony, in addition to the affidavit, can be appropriately considered by the magistrate prior to the issuance of the warrant. Therefore, any communication in support of the affidavit, whether verbal or written, shall be made under oath. Verbal communication, including the oath, must be electronically recorded and transcribed for later submittal to the court.

B. By statute, applications for a warrant may be submitted in person, by facsimile, or by telephone.

1.5.6.2 Telephonic and Faxed Search Warrants

A. Telephonic and faxed search warrants may be used under the same circumstances as a standard search warrant and may be used whenever time is of the essence.

B. Faxed Warrant Procedure

1. Prepare the affidavit and search warrant as usual.
2. Fax the affidavit and search warrant to a magistrate.
3. If approved, the magistrate will sign the search warrant and fax it back to the officer.
4. The faxed search warrant with the magistrate's signature is deemed to be a valid search warrant.

C. Telephonic Warrant Procedure

1. Prior to making the call, officers should prepare notes outlining the presentation they plan to make to the magistrate to establish to establish probable cause.
2. The required equipment should be prepared to record the phone call, which is required.
3. The call to the magistrate may be placed from any telephone, but should be placed from an area where there is little or no background noise.
4. As a courtesy, the magistrate shall be called and told that the officer would like to obtain a telephonic search warrant. The officer should offer to call back in a few minutes, to allow the magistrate time to prepare for the call if necessary.
5. When the magistrate is prepared to begin, the recording equipment must be started, and these procedures followed:
 - a. If possible, another officer shall be present to serve as a witness to the conversation.
 - b. The requesting officer shall give name, rank, department, and identifying number to the magistrate. The purpose of the call shall be stated to the magistrate.
 - c. Prior to reciting any facts pertaining to probable cause, the magistrate must place the officer under oath. The failure to give an oath will invalidate the warrant.
 - d. After stating the date and time, the officer shall then begin to recite the facts that constitute probable cause. Upon completion, the officer shall ask the magistrate if there are any questions.
 - e. If the magistrate finds that probable cause exists, the officer must read verbatim the previously completed *Standard Arizona Duplicate Original Search Warrant* to the magistrate.

- f. The magistrate will then direct the officer to sign the duplicate original warrant. The warrant shall be signed by the officer for the magistrate, the magistrate's name shall be listed, and both the officer and witness shall sign, indicating their name, rank, identifying number and department.
6. When all these procedures are completed, and just prior to disconnecting the call, the officer shall state the time at which the conversation with the magistrate is finished. The officer should then check the recording to ensure it worked.
7. After authorizing a signature on a duplicate original search warrant for the requesting officer, the magistrate is required by law to make an original search warrant, with the time of issuance of the duplicate warrant entered upon the original.
8. When the magistrate authorizes the officer over the telephone to sign a search warrant in the magistrate's name, the duplicate original search warrant has the same authority as a search warrant signed by the magistrate.
9. The *Duplicate Original Search Warrant* shall be executed in the same manner as an original search warrant. In addition, the exact time of the execution of the warrant must be entered on the face of the warrant by the officer executing it.

1.5.6.3 Executing a Search Warrant

A. A sworn supervisor shall be in charge of all search warrant executions. The supervisor is responsible for all notifications, warrant information review, warrant procedure conduct and security, appropriate memos, making sure that the entry and all interviews are recorded, and other tactical or administrative details regarding the procedures. All officers involved in the initial entry shall wear body armor. Supervisors may permit exceptions to this requirement when appropriate (for example, when the entry is being done through use of a ruse).

B. A uniformed supervisor shall be in attendance for the duration of the search warrant procedure. Uniformed patrol supervisors and officers will be used as situations dictate but will be returned to their regular duty assignments as soon as reasonably practical.

C. Undercover officers whose dress and appearance are not conventional for law enforcement personnel will not be involved in the search warrant entry team and normally will not be in view of any persons inside the premises until entry has been accomplished and the premises secured.

D. Search warrant locations known or believed to involve drug laboratories or other hazardous scenarios will be, when feasible, referred to officers or units with training in handling such scenes.

E. The following shall be done before execution of a warrant.

1. In all instances in which a forced entry may be necessary, a briefing shall be held. This briefing shall include raid and arrest operations planning which outlines at a minimum:
 - a. all personnel involved and their assignments,
 - b. diagrams, sketches, photographs and/or maps of the target location,
 - c. special equipment needed or utilized such as body transmitters, recording devices, and video equipment.
2. One officer will be assigned to record, as completely as possible, all conversations surrounding the execution of the warrant. Special attention should be given to the announcement of presence and authority.
3. As soon as practical after a Department employee concludes that a search warrant may be executed, a surveillance of the target location shall be implemented, unless the premises are already secured.
4. If the warrant is to be served outside the Department's jurisdiction, the law enforcement agency for the jurisdiction in which the warrant is to be served will be notified.

F. Knock and Announce

1. Officers are to knock and announce prior to all entries to serve search warrants unless a magistrate has authorized an unannounced entry in the issuance of a warrant, or a supervisor has approved the unannounced entry as authorized in A.R.S. §13-3916 (below). The supervisor granting

the approval shall prepare a police report completely documenting the facts and circumstances that justified the “no-knock” entry.

2. When knocking and announcing, officers shall announce, in a voice loud enough to be heard by occupants inside, that they are police officers and they have a search warrant for the premises. The knock and announcement as well as the entry should be recorded. The only exception to this paragraph is service on an individual or property already in police custody.
3. A.R.S. §13-3916 provides that an officer may break into a building, premises, or vehicle or any part thereof, to execute a warrant when:
 - a. after notice of the officer’s authority and purpose, the officer receives no response within a reasonable time.
 - b. after notice of the officer's authority and purpose, the officer is refused admittance
 - c. a magistrate has authorized an unannounced entry.
 - d. the particular circumstances and the objective articulable facts are such that a reasonable officer would believe that giving notice of the officer’s authority and purpose before entering would endanger the safety of any person or result in the destruction of evidence.

G. Serving the Warrant

1. When the supervisor of the detail executing the search warrant anticipates forcing entry into an occupied structure and/or using force against the occupants, the supervisor shall:
 - a. determine and make provisions for communications and specialized equipment needs,
 - b. coordinate required assistance from specialized support units, (e.g., SWAT),
 - c. consider availability of medical resources,
 - d. develop strategies and tactics for approaching, entering, securing, and leaving the structure,
 - e. discuss the threat potential and the anticipated necessity for using force and making arrests with all those involved in the entry and search teams,

- f. When the potential for violence is imminent or considered significant, review the plan of execution with the supervisor's immediate superior to evaluate effectiveness and approve the necessity of the action.
2. Photographs shall be taken of any damage caused by the execution of the warrant, the damage shall be documented and a memo, with the report number included, shall be forwarded to the Professional Standards Unit.
3. The supervisor, or officer designated to do so by the supervisor, should have possession of the search warrant, hand it directly to the person upon whom the warrant is served, and explain its purpose as soon after entry as feasible. It is not legally required that the person be shown the affidavit to the search warrant, but this is permissible. If the location is not occupied, the search warrant copy shall be left at a visible location within the searched area.
4. Deviation from these execution of search warrant procedures must be lawful, based on sound judgment, and cleared through the supervisor responsible for the search warrant. A sworn supervisor will be in charge of all search warrant executions.

H. Seizure of Property

1. Although several officers may engage in the search, one officer shall be designated the "finder." That officer is responsible for documenting the circumstances of the search for and seizure of all property. Another officer shall be designated as the "recorder" and be responsible for marking, sealing, photographing, and recording the evidence.
2. Officers may search only in those places where the evidence they are authorized to seek may reasonably be found. For example, an officer may not search for a sawed off shotgun in a matchbox.
3. During the execution of the warrant, officers executing the search may seize those items described in the warrant, as well as any contraband or items of property for which the officer has probable cause to believe have evidentiary value, even though such property is not named in the warrant. Such articles may be seized only if they have been found within the course of a proper search under the warrant.

4. When an officer seizes property under the warrant, a detailed receipt for the property seized will be given to the person from whom it was taken or in whose possession it was found. If the property is seized when a person is not present, a receipt will be left at the location where the property was found. Any officer present and participating in the search may sign the receipt.

I. Returning the Search Warrant

A warrant shall be executed within five calendar days and returned to the issuing magistrate within three business days after the warrant is executed. If necessary, the time for execution may be extended by five additional days, with the written authority of the magistrate. The return shall include a written list of all property seized as the result of the warrant, along with the warrant. A return shall be filed even if no property is seized.

1.5.6.4 Search Warrants for Tracking Devices

A. The policies set forth in 1.5.6 that apply to general search warrants apply to search warrants for tracking devices except as provided in A.R.S. 13-4291 through 4293.

B. A tracking device search warrant may be issued on any of the following grounds:

1. When the object to be tracked was used, is being used or is about to be used as a means of committing a public offense.
2. When the object to be tracked is in the possession of a person who has committed, is committing or is about to commit a public offense.
3. When the object or person to be tracked constitutes any evidence that tends to show that a particular public offense has been, is being or is about to be committed or tends to show that a particular person has committed or is committing the public offense.
4. When the person to be tracked is the subject of an outstanding arrest warrant.

C. The tracking device warrant shall authorize use of the device at any time of day or night and shall specify the length of time the device may be used. That time may not exceed sixty days, unless an extension of the time period is ordered by the court.

D. Installation, maintenance and removal of the device are authorized by the warrant.

E. The tracking device must be installed and/or delivered within ten calendar days after issuance of the warrant (may be extended by the court) and must be returned within three business days after expiration. The return must include the time and date of initiation and the time period during which the tracking occurred.

F. The person who was tracked, or whose property was tracked, must be notified within ninety days after the tracking device's use ends.

1.5.6.5 Cell Site Simulator Device Search Warrants

A. The policies set forth in 1.5.6 that apply to general search warrants also apply to cell site simulator device search warrants, except as provided in A.R.S. 13-4291 and 13-4294.

B. A cell site simulator device search warrant may be issued on the following grounds:

1. When the communications device to be identified is in the possession of a person who has used the communications device, is using the communications device or is about to use the communications device as a means of committing a public offense.

2. When the communications device to be identified constitutes any evidence that tends to show that a particular public offense has been committed or tends to show that a particular person has committed or is committing the public offense.

C. The cell site simulator device warrant shall authorize use of the device at any time of day or night and shall specify the length of time the device may be used. That time may not exceed sixty days, unless an extension of the time period is ordered by the court.

D. The cell site simulator device warrant must be initiated within ten calendar days after issuance of the warrant (may be extended by the court) and must be returned within three business days after expiration. The return must include the time and date of initiation and the time period during which the tracking occurred.

E. The person who was tracked, or whose property was tracked, must be notified within ninety days after the tracking device's use ends. Delay may be allowed as prescribed in 13-3919.

F. A cell site simulator device may not be used to intercept, obtain or access the content of any stored oral, wire or electronic communication unless the interception or access is authorized by statute. A cell site simulator device may be used to track a communications device pursuant to section 13 4293.

G. If the cell site simulator device is used to locate or track a known communications device, all non-target data must be destroyed within sixty court business days after the return of the search warrant to the court.

H. If the cell site simulator device is used to identify an unknown communications device, all non-target data must be destroyed within sixty court business days after the return of the search warrant, unless the court orders the non-target data to be preserved.

1.5.7 Consent Searches

A. Consent is more than just an exception to the warrant requirement. Consent is a waiver, not only of the warrant requirement, but also of the probable cause or reasonable suspicion requirement.

B. The person giving consent must have common access or control over the item or area. If, under the totality of the circumstances, the officer ascertains facts that make it reasonable to believe that the person granting consent has authority, the consent will be considered valid.

Refer to [1.5.11.4](#) regarding consent searches of a residence in which there is more than one occupant.

C. If the person has the authority to give consent, the courts will then determine whether the consent was voluntary. The standard for determining voluntariness is clear and convincing evidence under the totality of the circumstances. Some of the factors the courts have considered in determining voluntariness include:

1. knowledge of the right to refuse. While officers are not required to inform the person of the right to refuse, it is helpful to do so.
2. assistance of the subject in conducting the search.
3. whether the subject was cooperative or uncooperative.

4. the subject's prior arrest record, which may demonstrate knowledge and experience with police procedures.
5. whether the consent is given in writing, verbally or inferred through actions of the person.
6. the length of time during which consent was sought (be brief).
7. any threat of consequences if consent is not given.
8. the surrounding circumstances, i.e., the number of officers present, drawn weapons, and detention in handcuffs.
9. whether the subject is in custody or investigative detention. Consent is most likely to be found voluntary if the subject is free to leave; least likely to be found voluntary if the subject is under arrest.
10. ability to understand the request for consent. If the subject does not speak English, the consent shall be sought in the subject's native language.
11. age, education, and intelligence of the subject.
12. physical condition of the suspect – intoxicated, injured, etc.
13. whether force was previously used against the subject. If force was used and it is feasible to do so, officers other than the ones who used the force should seek the consent.

1.5.7.1 Scope

The extent of the search is limited by the consent given. The subject can stop the search at any time, or restrict the scope of the search at any time. It is recommended that a *Consent to Search Form* be completed, signed by the subject and witnessed by the officer or that the person's consent be recorded.

1.5.8 Frisks and Pat-Downs

A. Under the Supreme Court's decision in *Terry v. Ohio*, a stop and a frisk are separate concepts that require separate legal justifications, though occasionally the same facts may justify both (such as when officers have reasonable suspicion to stop a person they believe just committed an armed robbery).

B. Officers may stop a person for the purpose of investigating criminal activity when the officer has reasonable suspicion, based on specific articulable facts (facts that can be documented or listed in a police report), and taking into account their training and experience that the person to be stopped has, is, or will be involved in criminal activity. See section 1.5.3.1 above.

C. An officer may frisk or pat-down a person for weapons when the officer has lawfully detained the person and the officer has reasonable suspicion, based on specific articulable facts that the person is presently armed and dangerous. This does not require that the officer see something that appears to be a weapon.

1. A frisk or pat down consists of a carefully conducted and limited touching of the outer clothing of the suspected person for the purpose of discovering weapons which might be used to assault the officer. A frisk may be extended beyond the outer clothing to areas that the available information indicates might hold weapons. For example, this would apply when the person is wearing bulky clothing where the officer cannot feel the contents or when an officer sees or feels a bulge in some part of the person's clothing, which bulge might be a weapon.

2. Suspicious activity alone does not allow a frisk for narcotics, instrumentalities, or other evidence. Officers do not have an absolute right to frisk people for officer safety reasons. The only lawful justification for a frisk is reasonable suspicion, based on the totality of the circumstances, that a person may be presently armed and dangerous.

a. 3. It is of course always the case that a person may consent to a frisk or pat down by an officer.

D. The reasonable belief that person is armed and dangerous may be based on facts such as:

1. the person's appearance, including clothing that bulges in a manner suggesting the presence of objects capable of inflicting injury or statements or actions suggesting the possibility that the subject is armed.
2. the person's actions, including furtive movement as if to hide or reach for a weapon when the officer approached; words or actions that are threatening.
3. in combination with other facts, prior knowledge of the person, including whether the person has an arrest record for weapons or other violent offenses, or whether the person has a reputation in the community for carrying weapons or for assaultive behavior.
4. in combination with other facts, location of the incident, including whether the area is known for criminal activity, is a high crime area, or is in a remote area.
5. in combination with other facts, time of day and whether the encounter is taking place in a well-lit area, or whether the area is dark.

6. the police purpose for the stop, including whether the officer can articulate facts and circumstances that lead the officer to believe that the person stopped may have been involved, or be about to become involved, in a serious and violent, or armed, offense.
7. companions, including whether the officer has frisked a companion of the suspect that revealed a weapon and whether the officer has immediately available assistance to be able to safely interact with the number of subjects that have been stopped.

1.5.8.1 Scope

The frisk shall be confined in scope to an intrusion reasonably designed to discover guns, knives, clubs, or other instruments that might be used to assault the officer.

The purpose of this limited search is not to discover evidence of crime, but to allow the officer to pursue the investigation without fear of violence. A frisk is generally limited to a pat-down of the outer garments of a suspect, particularly those areas most likely to contain a weapon. The frisk may be extended to areas which information indicates might hold potentially lethal weapons. For example, a commonly justified extension of a frisk beyond the pat-down search occurs when an officer sees or feels a bulge in some part of the person's clothing, which bulge might be a weapon.

1.5.8.2 Procedure

The frisk may be conducted immediately upon making the stop or at any time during the stop, but should be made as soon as the officer develops a reasonable belief that the person stopped is presently armed and dangerous and the frisk can be safely accomplished.

If the frisk discovers a seizable item, the officer shall seize it and consider it in determining if probable cause exists to arrest the person.

Persons frisked but not arrested shall have any objects taken from them returned to them upon completion of the contact, unless the objects constitute contraband or evidence of a crime.

1.5.8.3 Securing Separable Possessions

If the person is carrying an object immediately separable from the person (e.g., a purse, shopping bag, briefcase) the object shall be removed from the person's control.

In the absence of articulable facts indicating that the object contains a weapon, officers shall not look inside the object, but shall place it in a secure location out of the person's reach for the duration of the stop. If officers have reasonable suspicion indicating that the object contains a weapon, it may be searched for the weapon. In addition, if something occurs during the stop that causes the officer to reasonably suspect the possibility of harm if the object is returned unexamined, the officer may briefly inspect the interior of the item before returning it.

1.5.8.4 Plain Feel During A Frisk

If while conducting a "frisk," an officer feels an object whose contour or mass makes its identity as a weapon immediately apparent or gives the officer probable cause to believe the item is contraband, this item may be seized. If, however, the officer is sure this item is not a weapon, but is unsure whether it is contraband, the officer may not squeeze or manipulate the item in order to identify it.

1.5.8.5 Documentation

A. Proper documentation of stop and frisk activity serves to ensure the proper exercise of law enforcement authority and enhance an officer's ability to reconstruct those factors that authorized the stop or frisk, and what took place during the confrontation. They also serve to protect the officer from baseless allegations of wrongdoing.

B. Officers who have stopped or frisked any person shall document the event as required by Department procedures.

C. If the stop or frisk was based in whole or in part upon an informant's tip, the officer making the stop or frisk will attempt to obtain and record the identity of the informant, and record the facts concerning the tip (e.g., how it was received, the basis of the informant's reliability, and the origin of the informant's information) in a report.

1.5.9. Searches Incident to Arrest

A search incident to arrest is permissible in only two situations:

1. After a full custodial arrest and prior to transport to jail, police station, or DUI checkpoint or van,

2. After an arrest, even when a person is to be released, to search for evidence related to the offense with which the person has been charged.

1.5.9.1 Scope

An officer has the authority to conduct a full search of the person of an arrestee following a full custodial arrest and prior to transport. However, the search incident to arrest of an arrestee who will be released is limited to a search for evidence related to the offense with which the person is charged. For example, a person arrested for shoplifting may be searched for additional stolen merchandise prior to being released.

Cell phones in the possession of an arrestee may not be searched based solely on the fact that the person has been arrested. If the officer has probable cause to support the issuance of a search warrant, the officer should seize the phone and proceed to seek a warrant for its search.

No warrant is necessary to search a cell phone if the person voluntarily consents to a search of the phone ([see G.O. 1.5.7](#)) or if there are exigent circumstances which require an immediate search of the phone (for example, facts suggest that a person who has abducted a child may have information on his phone that could be immediately accessed relevant to locating the abducted child).

1.5.9.2 Strip Searches

No officer shall perform a strip search of a suspect without the express permission of a sworn supervisor and a search warrant or facts demonstrating a clearly articulated danger requiring immediate action by the officer. Otherwise, strip/body cavity searches shall be conducted by medical or jail staff utilizing medical or jail facilities to ensure safety and privacy for the individual. In every case, the search shall be documented in a report.

1.5.10 Community Caretaking

A. Various courts have allowed warrantless searches of persons when those searches are in response to emergency situations concerning an injured or unconscious persons requiring aid, rather than a search in a criminal investigation.

B. The scope of an emergency search of a person is limited to the extent necessary to effectuate the purpose. Officers must be able to demonstrate that the emergency presented by the injured or unconscious person was readily apparent and there was a need to intrude upon the privacy interests of that person for one or more of the following reasons:

1. identification of the person in order to contact relatives or friends.
2. determination of the need for specific medication, i.e., medical bracelet, necklace, or card, or evidence of medication.
3. discovery of the nature of the injury or problem by examination.

1.5.11 Searches of Residences

Searches of a person's residence without a warrant are presumed to be unreasonable. Officers must be prepared to justify, in detail, any entrance to a residence that is not authorized by a warrant, whether entry is gained by consent or via exigent circumstances.

1.5.11.1. Abandoned Premises

A. A person has no reasonable expectation of privacy (and therefore no Fourth Amendment rights) in a residence or other premise that the person has intentionally or constructively abandoned.

B. The most common application of this concept would be in an abandoned rental property. The tenant who abandoned the property would no longer have a reasonable expectation of privacy, so a search of the premises could not violate the tenant's Fourth Amendment rights. However, the landlord would have a right to privacy in the premises. In such an instance, the officer must seek consent from the landlord to search the premises.

Intent to abandon will not be presumed. Whether abandonment has occurred will be determined by a review of all circumstances.

1.5.11.2. Open Fields and Curtilage

A. The "open fields" around a residence are defined as the unoccupied or undeveloped area outside of the curtilage. The Supreme Court has determined that there is no reasonable expectation of privacy in the open fields around a home and, therefore, a search of open fields does not raise a constitutional issue. However, areas within the curtilage of a home are treated as a part of the residence and are subject to the Fourth Amendment.

B. "Curtilage" is normally defined as the area around the home to which the activity of home life extends. To determine curtilage, the U.S. Supreme Court considers:

1. the proximity of the area to the home,
2. whether the area is included within an enclosure surrounding the home,

3. the nature of the uses to which the area is put. Intimate activities similar to those usually conducted in the home make the area more likely to be considered curtilage, and
4. the steps taken to protect the area from observation by people passing by.

C. Curtilage generally will include the back yard and front yard, as well as the private portion of a driveway. In the absence of a warrant, consent or exigent circumstances, officers may enter the front yard using only the sidewalk or pathway that is meant for the public to use to approach the main door of the residence.

1.5.11.3. Aerial Views

Naked-eye aerial observation of areas around a home, even within the curtilage, does not constitute a search. As long as the observations are made with the naked eye and from a public vantage point where the officers have a right to be, the surveillance will be constitutional. A fly over of the property for surveillance is lawful if it does not interfere with the person's use of the property or reveal intimate details connected with the home or curtilage. For example, a flight so low that the downdraft or noise would interfere with the reasonable use of the property might be considered unconstitutional.

1.5.11.4 Consent Search of a Residence

A. The courts will look to the totality of the circumstances in determining whether or not the consent was voluntary. Consent may only be granted by someone who the officer reasonably believes has the authority to grant consent. Officers must make a reasonable inquiry as to a person's authority to grant consent prior to relying on that person's consent (in other words, just because a person answers the door at a home does not mean the person has authority to consent to a search of the home).

B. When there is more than one occupant in a residence, officers are to comply with the following direction from the United States Supreme Court:

1. Officers may search jointly occupied premises without a search warrant if one of the joint occupants consents to the search.
2. Officers may not search jointly occupied premises without a search warrant based on consent if one of the *physically present* occupants refuses to consent (even if another occupant consents).
3. If a joint occupant who has denied consent for a search is removed by an officer, as long as the removal is objectively reasonable, another joint

occupant may consent to the search. Removal is objectively reasonable if it was the result of a valid detention or valid arrest.

C. The extent of the search is limited by the consent given. The subject can stop the search at any time, or restrict the scope of the search at any time.

D. Officers shall not perform a consent search on a residence unless the person consenting signs the Department *Consent to Search* form or unless their consent is recorded and the officer is satisfied that the person voluntarily consented.

1.5.11.5. Public Safety or Emergency Search of a Residence

A. This exception to the warrant requirement generally relates to factual situations in which it appears that a fight is in progress, or a person may be hurt or in need of immediate medical assistance. Examples include welfare checks and domestic violence situations where the crime reasonably appears to be ongoing and entry into the home a mentally ill person **who is a danger to self or others or is in need of immediate aid.**

B. This exception is based upon the need for immediate aid, not on the need for investigation or the seriousness of an offense. The reasonableness of an officer's entry under the emergency aid exception is a question of fact for the trial court. Officers shall document specific facts warranting the necessity for the immediate entry including that:

1. there must be probable cause to believe an emergency is at hand and that there is an immediate need for assistance for the protection of life or property.
2. there must be a reasonable basis to associate the emergency with the area or place to be searched.
3. the search may extend only to those areas where it would be reasonable, in light of the nature of the emergency, to search.

1.5.11.6. Protective Sweep

A. Officers may, when they reasonably perceive an immediate danger to their safety, make a warrantless, protective sweep of a residence. Judicial decisions on protective sweeps have authorized them in two circumstances. They are:

1. the area “immediately adjacent” to the place of arrest. Officers may search this area for a person who may present a danger to them, without any reasonable suspicion to believe a person is present.
2. other areas, near but not adjacent to the place of arrest. To do a lawful protective sweep of such an area, an officer must have a reasonable belief, supported by specific and articulable facts, that the area harbors someone who could pose a safety threat.

B. The protective sweep exception to the warrant requirement does not authorize officers to search a residence simply because they are interviewing an occupant, either at the threshold or within the residence. Officers must be able to meet the standards noted above in order to lawfully perform a protective sweep of a residence.

C. The search is limited to those areas in which the person may be found.

1.5.11.7 Hot Pursuit Entry into a Residence or other Building

To justify entering a building or home when in hot pursuit, the pursuit must be ongoing and the officer must have been in pursuit of the subject usually all the way from the scene of the crime. Although an officer need not be in sight of the fleeing suspect at all times, the officer or another person must be in active pursuit of the fleeing suspect if this exception is to be applied.

By statute in Arizona, this exception is limited to felony offense. Once the officer enters the building, the search is limited to those areas in which the person may be hiding.

1.5.11.8 Entry to stop the Destruction of Evidence

This exception applies to residential and commercial buildings, and to vehicles. To justify entering to stop the destruction of evidence, there must be facts indicating the ongoing destruction, or the immediate danger of destruction, of contraband or crime-related evidence. The search is limited to those actions necessary to preserve the evidence until a search warrant can be obtained.

1.5.11.9 Search of a Residence Incident to an Arrest

If an officer is lawfully in a home and makes a lawful arrest, the officer may do a search incident to that arrest. The search is limited to the areas under the immediate control (or “wingspan”) of the arrestee at the time of arrest and areas where the suspect requests to go and is allowed to go by the arresting officer.

1.5.12 Vehicle Searches

1.5.12.1 Consent Searches

As in all consent searches, the main issue is the voluntariness of the consent. The owner or the person with apparent authority over the vehicle (the driver) may consent to its search. A third party may give consent, if that person has joint access to or control over the vehicle, as long as no one objects who has equal or greater access or control.

Neither reasonable suspicion nor probable cause is required. The extent of the search is limited by the consent given. The subject can stop the search at any time, or restrict the scope of the search at any time. It is recommended that a *Consent to Search* form be completed, signed by the subject and witnessed by the officer, or that the person's consent be recorded.

1.5.12.2 Search of Vehicles Incident to Arrest

If the arrestee was a recent occupant of the vehicle and was arrested in close proximity to a vehicle, the vehicle may be searched incident to arrest without a warrant or other exception to the warrant requirement only under the circumstances listed below:

- when it is reasonable to believe that evidence relevant to the crime for which the person is being arrested may be found in the vehicle, or
- when the person being arrested is unsecured and within reaching distance of the passenger compartment at the time of the search.

If the arrestee has been secured and there is no reason to believe the vehicle contains evidence relevant to the crime for which the person is being arrested, the vehicle may not be searched incident to arrest. Officers may not delay securing the arrestee for the sole purpose of justifying a search of the vehicle.

Officer safety will justify a search of a vehicle incident to a custodial arrest only when officers can document facts that demonstrate that their safety was jeopardized by bystanders or other occupants of the vehicle who are present, confronting the officers, and in a position to obtain a weapon from the vehicle.

The scope of the search of the vehicle incident to arrest does not include a search of the trunk of the vehicle and includes only the passenger compartment and all containers, locked or unlocked, within the passenger compartment.

1.5.12.3 Vehicle contains Evidence or Contraband

A vehicle may be searched without a warrant if an officer has probable cause to believe there is contraband, evidence or any item subject to seizure in the vehicle. Examples of facts that are considered probable cause include:

- a reliable drug dog alerts on the vehicle.
- an officer sees contraband in plain view in the vehicle.
- the suspect vehicle from a bank robbery is stopped within 2 minutes of the robbery and only a half mile from the scene.

If probable cause exists only for a single item (for example, all that was taken from the home during the burglary was the flat screen television), the search must cease once that item is found (the TV is in the back seat of the vehicle). If probable cause exists for contraband or evidence generally (the smell of burning marijuana; the proceeds of a home burglary), the search may continue throughout any portion of the vehicle, including the trunk, that may contain the evidence or contraband.

1.5.12.4 Vehicle Frisk

For a vehicle to be frisked, the officer must have made a lawful stop based upon reasonable suspicion or probable cause and the officer must have a reasonable suspicion that the vehicle contains weapons or ammunition that poses a danger to the officer.

The scope of a vehicle frisk is limited to those areas in the passenger compartment of the vehicle in which a weapon may be placed or hidden.

1.5.12.5. Vehicle Inventory

Prior to tow or release, officers will inventory any vehicle [required to be inventoried under G.O. 61.8.2.](#)

1.5.12.6. Vehicle Searches; other issues

A. Opening Locked Containers - When possible, officers shall open a locked vehicle, container, trunk, or glove compartment with a key or combination rather than by force. If keys are unavailable, and time permits, officers shall contact a locksmith to respond and open the vehicle or container. If time does not permit, the officers shall explain to the owner or person in possession, if the officer is in contact with that person, that the item will be opened with force if the key or combination is not provided.

- B. Location of Search - In those cases where it is not feasible to conduct the search at the scene of the incident, and there is probable cause to search the vehicle or consent to move the vehicle, the vehicle shall be secured in police custody at all times until it is searched. The search shall be conducted as soon as practicable.
- C. Search for Vehicle Identification Number (VIN) - The VIN is normally visible through the windshield. An officer may move items on the dashboard of a vehicle that are blocking the view of the public VIN from the outside of the vehicle. When checking the registration of a vehicle, the officer may compare the VIN on the registration with the VIN on the vehicle.
- D. Motor Home/Mobile Home - A motor home or mobile home, if apparently mobile, is treated the same as a motor vehicle for the purposes of warrantless searches. Motor homes and mobile homes that are apparently affixed to a location, e.g., water hookups, skirts, lack of wheels, shall be treated as residences, not as vehicles.
- E. Aircraft and watercraft - Aircraft and watercraft are subject to the same exceptions to the warrant requirement as are automobiles.
- F. Abandoned Vehicle - If a vehicle is truly abandoned, there is no need for a search warrant or other exception to the warrant requirement, as there would be no reasonable expectation of privacy in the vehicle. This does not mean a vehicle that is dismantled, or possibly junked on a person's private property, is abandoned. Any time a person would have a reasonable expectation of privacy in the vehicle, it is not abandoned.
- G. Registration - A search for registration in a vehicle can be done without a warrant only if the officer has reasonable suspicion to believe the vehicle is stolen.
- H. Forfeiture - An officer does not need a warrant to seize a vehicle in a public place if there is probable cause to believe it is subject to forfeiture. Otherwise, the vehicle that is to be seized for forfeiture must be lawfully seized as part of a criminal case or subject to a court order.

1.5.13 Physical Characteristics Orders

- A. A.R.S. §13-3905 provides that a court may issue an order authorizing an officer to take a person suspected of committing an offense into custody for the

purpose of obtaining evidence of identifying physical characteristics. "Identifying physical characteristics" is defined in the statute as including, but not being limited to, the fingerprints, palm prints, footprints, measurements, handwriting, hand printing, sound of voice, blood samples, urine samples, saliva samples, hair samples, comparative personal appearance or photographs of an individual.

B. The application must include a proposed order and an affidavit. The officer's affidavit, when requesting any identifying physical characteristic other than a blood sample, must include:

1. reasonable cause that a felony has been committed,
2. reasonable cause that procurement of evidence of identifying physical characteristics may contribute to the identification of the person responsible for the offense,
3. that the evidence cannot be acquired from the officer's own agency or the Department of Public Safety, and
4. if the order is for buccal cells, blood, urine or semen, probable cause supporting the order.

When the request is made for a blood sample, the affidavit must include a statement of probable cause (rather than reasonable cause) to believe that procurement of evidence of identifying physical characteristics will contribute to the identification of the person responsible for the offense.

C. The proposed order is required to specify the following information:

1. the alleged criminal offense that is the subject of the application,
2. the specific type of identifying physical characteristic evidence that is sought,
3. the relevance of the evidence to the particular investigation,
4. the identity or description of the individual who is to be detained for obtaining the evidence,
5. the name and official status of the investigative officer authorized to detain the individual and obtain the evidence,
6. the place at which the evidence will be obtained,
7. the time that the evidence shall be taken, except that no person may be detained for a period of more than three hours for the purpose of taking evidence,

8. the period of time, not exceeding fifteen days, during which the order shall continue in force and effect. If the order is not executed within fifteen days and is not extended by the magistrate, a new order may be issued pursuant to this section. The magistrate may extend the time for execution of the order for no longer than fifteen days.

More intrusive collections of physical characteristics, (e.g., buccal cells, blood, urine and semen) require probable cause and may also be procured with a search warrant if prior to indictment, or an order under Arizona Rules of Criminal Procedure Rule 15.2 if after indictment. If the person has been indicted, no action should be taken prior to consultation with the Deputy County Attorney handling the case.

1.5.13.1 Procedures to Follow to Obtain a Court Order

To obtain a court order for physical characteristic evidence, the investigating officer shall prepare both a court order and an affidavit in support of the court order. An order may be obtained in person or by telephone, radio or other means of electronic communication, in the same manner as a search warrant.

1.5.13.2 Execution of the Court Order

The court order to seize physical characteristic evidence must be executed at the time and place specified in the order, or as soon afterwards as possible if the suspect cannot be found on the date specified in the order. The order is valid for 15 days; if not executed within 15 days it may be extended for an additional 15 days by the magistrate. The person may be held for no more than three hours, beginning from the moment the person is first detained.

The officer executing the order may use a reasonable amount of force to take the evidence specified in the order. If the nature of the physical characteristic evidence requires the cooperation of the suspect (e.g., giving a voice or handwriting sample), and there is no cooperation, the suspect will be in violation of the court order and can be held in contempt of court for failure to comply with the order or arrested for A.R.S. §13-2810.

The order must be returned not later than thirty (30) days after its issuance. The return shall include a sworn statement indicating the type of evidence taken, if any.

1.6 Laws of Arrest

1.6.1 Authority to Arrest

An officer may arrest a person if the officer has probable cause to believe:

- a felony has been committed, and probable cause exists to believe the person to be arrested has committed the offense,
- a misdemeanor or a petty offense has been committed, and probable cause exists to believe the person to be arrested has committed the offense, or
- the person is the subject of a valid misdemeanor or felony arrest warrant, or an Arizona civil arrest warrant.

1.6.2 Probable Cause

For purposes of making an arrest, probable cause is defined as:

Facts and circumstances, and reasonable inferences from those facts and circumstances, that would lead a reasonable person to believe a crime is being, has been or will be committed and that the person to be arrested is committing, has committed or will commit that crime.

To have probable cause to stop or arrest someone is to have facts sufficient to demonstrate a “fair probability” that the person has committed or was involved in the crime.

1.6.2.1 Location of arrest; warrant requirements

A. With probable cause to do so, an officer may make an arrest with or without a warrant under the following circumstances:

1. at any time, in a public place, or in any building in which an officer has the legal right to be present.
2. at the subject's private residence
3. if the officer has entered lawfully, or
4. if the subject is outside of the residence
5. if the officer is invited into a third party's residence (or the officer has otherwise entered lawfully) where the arrestee is located

B. An officer must confirm an arrest warrant and have probable cause to believe the person is at the residence in order to make a forcible entry into a person's residence to arrest him/her.

C. An officer must confirm an arrest warrant and have a search warrant in order to make forcible entry into the home of a person other than the arrestee to make the arrest.

D. Forced entry into a residence to make an arrest with a warrant shall be limited to felony offenses. Officers shall not, except in exceptional circumstances approved by a supervisor, force entry into a person's home to serve a misdemeanor warrant.

1.6.3 Use of Force while Making an Arrest

All suspects and prisoners shall be treated professionally, humanely and with regard for their legal rights. When making an arrest, officers shall use only that force which is objectively reasonable.

1.6.4 De Facto Arrests

A. Officers are cautioned that detaining persons for unreasonable periods of time, or transporting persons against their will to a police facility or other site in the absence of probable cause is a de facto arrest.

B. A person may be subject to an investigatory detention based on reasonable suspicion of criminal activity. The courts have indicated that the length of time of an investigatory detention may not exceed that necessary to determine whether or not a crime has been committed and whether the person will be arrested or released. An investigatory detention that exceeds that length of time may be determined to have been an arrest, requiring probable cause.

C. The United States Supreme Court has held that a person who is transported against his or her will to a police facility has been arrested. If there is no probable cause to support the arrest, the arrest is unlawful under the Fourth Amendment. Unless an officer has probable cause, the officers shall not transport a person, without the person's consent, to a police facility. Brief transport of an individual for a show-up identification, when the detention is in close proximity to the time and location of the crime is permitted, if supported by reasonable suspicion.

1.6.5 Arrest Procedures

If feasible, prior to taking any police action, including an arrest, an officer shall identify him/herself as a police officer. An officer who makes an arrest shall:

- inform the person being arrested of the cause of the arrest.
- if the arrest is pursuant to an arrest warrant, inform the arrestee of the existence of the warrant.

Officers are not required to provide the foregoing information to an arrestee if:

- providing this information would imperil the arrest, or
- the arrestee is presently engaged in commission of the offense, or
- the officer is in pursuit of the arrestee immediately after commission of the offense or after an escape, or
- the arrestee flees or forcibly resists the officer before the officer has a chance to provide the information.

1.6.6 Disposition following arrest

1.6.6.1 Full custodial arrest (booking)

Officers shall make a custodial arrest of any person arrested for a felony offense, when required by law (for example, certain domestic violence offenses) or pursuant to an arrest warrant. Exceptions to this policy required the approval of a supervisor.

Officers should make a custodial arrest of a misdemeanor in the following situations:

- the suspect cannot be satisfactorily identified,
- the suspect refuses to sign a promise to appear or by overt action or statement gives the officer reason to believe that the person will not appear in court,
- the suspect committed the misdemeanor in the officer's presence and a release would be inappropriate
- there is information indicating that similar charges are pending against the subject
- a supervisor directs the custodial arrest of the suspect

Officers making a full custodial arrest of an individual shall search that individual incident to arrest.

1.6.6.2 Booking for both felony and misdemeanor charges.

When a subject is arrested for both felony and misdemeanor offenses, the officers shall book the arrestee into jail on the felony offense(s) only and fully document the misdemeanor offense(s) in a department report.

1.6.6.3 Cite and release

A. Arizona law authorizes an officer to complete a citation and release a person charged with a misdemeanor or petty offense, instead of taking the person into custody, if the person signs a written promise to appear in court on the cited charge(s). Release on a promise to appear is not permitted when:

- a custodial arrest is mandated by statute or Department procedures (for example, in certain cases of domestic violence).
- the offender is under the age of 18 and comes under the jurisdiction of the Juvenile Court for an offense for which citation and release is not authorized by the Juvenile Court .
- in the opinion of the officer the release could jeopardize the safety and welfare of the suspect or any other person. For Example: impairment due to alcohol and/or drugs or mental incapacitation. If the suspect is impaired or mentally incapacitated, the suspect may be released to a competent adult.
- the suspect has been cited and refuses to leave, or continues to commit a violation of the law.
- an identification (obtaining fingerprints or photograph) or custodial arrest would be more appropriate.

B. If the officer is unsure of the identity of the arrestee, the officer shall conduct procedures to accurately identify an arrestee prior to citing and releasing the arrestee. Officers may also conduct identification procedures if the information would assist in a criminal investigation. These procedures include fingerprinting and photographing the arrestee prior to release.

C. Fingerprinting (right index fingerprint on the citation) is required prior to release by citation on misdemeanor violations of Title 13 sex offenses and domestic violence offenses and Title 28 DUI offenses. In addition, these arrestees shall be provided with a notice of mandatory fingerprinting form, which shall advise the arrestee to appear for fingerprinting prior to arraignment.

1.6.7 Arrests Involving Foreign Nationals

A. The United States is obligated under international treaties and Arizona law enforcement is also obligated under A.R.S. §13-3906 to notify foreign consulates in certain situations when foreign nationals of their country are arrested, or otherwise detained for an extended period.

B. Whenever a foreign national is arrested or detained, the arresting officer shall determine whether notification is by treaty mandatory or voluntary. A list of countries and their status as voluntary or mandatory, translations of the advice to be given to the arrested person, consulate fax sheets, and fax numbers for all consulates are available at the U.S. State Department's web site in the regulation <http://travel.state.gov/content/travel/en/consularnotification.html>.

C. If the arrestee is from a voluntary notification country, the officer must advise the arrestee that, unless the arrestee waives notification, the officer will advise their consulate of their arrest. The officer shall document the time that the arrestee was advised and whether or not the arrestee waived notification.

D. If the arrestee is from a country that requires mandatory notification of consular officials then the arresting officer shall advise the arrestee that his or her consulate will be notified of the arrest. The officer shall document that the arrestee was so notified.

E. If the arrestee does not waive notification, or if the arrestee is from a mandatory notification country, the officer shall complete and fax the consulate notification fax sheet to the appropriate consular or embassy office. A copy of the fax notification should be attached to the officer's report.

F. Once notification of the appropriate consulate or embassy has been made it is not necessary to wait for a reply before continuing with the investigation. If the consulate does contact the officer and ask to talk with the suspect, the consulate is entitled to reasonable, private access. That access does not take priority over the investigation. Unless the official is licensed to practice law in the United States, the consulate or consular official may not act as an attorney and may not invoke any of the suspect's rights on the suspect's behalf.

1.6.8 Diplomatic, Legislative and Statutory Immunity from Arrest

1.6.8.1 Legislators

A. Federal legislators are privileged from arrest except in cases of treason, felonies, or misdemeanors amounting to a breach of the peace, during the following:

1. while the legislature is in session, and
2. while traveling from or returning to their homes to attend a session.

B. State legislators are privileged from arrest except in cases of treason, felonies, or misdemeanors amounting to a breach of the peace. State legislators

shall not be subject to any civil process including civil traffic citations, during the following:

1. while the legislature is in session, and
2. for 15 days prior to the start of the session.

C. The decision to arrest shall be referred to a supervisor in all cases. Arrest will be made for misdemeanors only in the following cases:

1. a violent offense,
2. disturbance of public order (such as disorderly conduct or trespass),
3. driving while under the influence of intoxicating liquor (DUI).

1.6.8.2 Foreign dignitaries

A. Foreign diplomatic agents (ambassadors and foreign ministers), their families and staff may enjoy complete immunity from arrest, and their property or residences may not be searched, even with a warrant. These persons may also not be compelled to testify or provide evidence in court proceedings. Generally, foreign consuls, their families and employees are not immune from arrest.

B. Persons protected by diplomatic immunity will have an identification card provided by the U.S. Department of State that contains a photograph of the person, the person's name, title, mission, City and state, date of birth, identification number, expiration date and State Department Seal. It may also contain a statement regarding the application of immunity to the person. If the officer is uncertain as to the validity of the identification or the application of immunity to the person detained, a supervisor should be contacted immediately.

Agents of the FBI or the State Department may be contacted to assist in verifying consular status as well as the existence and scope of a person's immunity.

1.6.8.3 National Guard members

Active duty National Guard members may not be arrested, except for felonies, while in camp, maneuvers or formations, or while engaged in armory drill, or while on their way to or from such duties. If a Guard Member commits a misdemeanor during this time, an investigation will be completed so that a warrant or summons may be issued after the period of immunity expires. This immunity does not extend to civil traffic violations not requiring detention.

1.6.8.4 Persons under subpoena

A witness under subpoena is privileged from arrest, except for treason, felony, or breach of the peace, while attending or traveling to and from court.

1.6.8.5 Military Personnel

If an active-duty member of any of the armed forces of the United States is arrested for a crime other than minor civil infractions or minor traffic offenses, the arresting officer will notify the arrestee's immediate supervisor. If the arrestee is **active duty**, the officer shall telephone the appropriate military branch and advise them that an active-duty military member has been arrested. Officers must provide the following information:

1. Name, rank, date of birth and serial number of arrested subject
2. The offense(s) with which the person is charged
3. The case number

1.6.9 Arrest Warrants

1.6.9.1 Obtaining an Arrest Warrant

An officer who seeks to have an arrest warrant issued must contact the appropriate prosecutor's office to apply for the warrant. The officer shall present the facts of the case to the prosecutor. If approved by the prosecutor, the prosecutor will prepare a criminal complaint. The officer may then be requested to appear before the appropriate Magistrate, Justice of the Peace or Superior Court Judge and swear to the facts underlying the complaint. The warrant will then be issued and signed by the judge.

1.6.9.2 Service of Arrest Warrant

A. Arrest warrants may be served by peace officers and, when the person to be arrested is already incarcerated in a jail facility or surrenders to that jail facility, by a detention officer at the jail facility where the officer is employed. Officers who have reason to believe that a warrant exists for a person may detain that person pending validation of the warrant. The warrant must be confirmed prior to arrest.

B. A warrant shall:

- contain the name of the person to be arrested or, if the name is unknown, any name or description by which the person can be identified with reasonable certainty,

- include the criminal charges and shall command that the person be arrested and brought before a magistrate,
- state the bond, if bail is available as a matter of right, and
- contain the magistrate's signature or wording indicating that the original warrant has a signature.

C. A warrant that is not sufficiently specific to allow an officer to verify the identity of the person to be arrested is invalid and an officer should not make an arrest based on that warrant.

D. The officer shall verify the identity of the person to be arrested. If it is necessary to establish identity, a fingerprint check may be made. If identification is inconclusive, the person shall be released.

E. To make a forcible entry to arrest a person (no consent or exigency) on an arrest warrant, an officer must have:

1. To arrest the suspect in his/her own home:

- a. an arrest warrant, and
- b. probable cause to believe the suspect is home.

2. To arrest the suspect in someone else's home:

- a. an arrest warrant, and
- b. probable cause to believe the suspect is home, and
- c. a search warrant.

1.6.9.3 Warrant verification

A. No warrant shall be served without verification. If the warrant is local, it shall be verified as still valid through Coolidge Dispatch.

B. If the warrant is from another agency, the officer shall contact that agency by telephone and request warrant verification. The name and identification number

of the person who verifies the warrant shall be included in the arresting officer's report. A computer entry from ACIC or NCIC is not sufficient for verification of a warrant and may not form the basis for an arrest.

C. It is not necessary to obtain a copy of an arrest warrant prior to serving it; however, if the suspect requests to see a copy, the officer shall secure a copy and provide it to the arrestee as soon as practicable.

D. If the warrant itself is verified but the issuing agency is unable to immediately confirm that they will extradite or, if in Arizona arrange for an out-of-county transfer, the warrant shall not be served and the suspect shall be released. If the warrant is verified but extradition or out-of-county transfer is denied, or if the warrant is no longer valid, the suspect shall be released (if there are no other charges). If the warrant is verified but not being served, for whatever reason, the person shall be advised that the warrant remains active. Persons arrested on out-of-county, out of state or international warrants shall be booked at the jail in the county of arrest.

E. The officer shall include within the written report all efforts made to establish identity and to confirm the warrant. If the warrant is not served, the report shall include a complete explanation of the reasons for the non-service.

1.6.9.4 Juvenile arrest warrants

Juvenile warrants are valid only until the person is 18 years of age. Juvenile warrants shall be served in the same manner as adult warrants, except that the juvenile shall be detained at the Pinal County Juvenile Detention Facility.

1.6.9.5 Non-service of warrants

An officer has the discretion not to serve a misdemeanor warrant if doing so would be a hazard to the health and well-being of the defendant, if the offense is minor and the defendant is accompanied by minor children, and in similar situations. An officer who elects not to serve a warrant shall advise the subject that the warrant remains active. The officer shall document the contact in a DR and shall include all current information on the person named in the warrant, including physical description, current residential and business addresses and other relevant information.

1.6.9.6 Department Warrants – Extradition/Out-of-County Transfer Policy

Other law enforcement agencies inquiring about the Department's extradition and out-of-county transfer policy on warrants shall be advised this Department will extradite and cooperate with out-of-county transfers as directed by the court.

1.6.10 Military members who are AWOL/ Deserters

A. When a person is suspected of being absent, or a deserter, from the armed forces, the officers shall confirm the person's status with military authorities. A service member will be detained once an officer is advised by an appropriate military representative that the proper written order exists to arrest the person and hold them as AWOL or as a deserter.

B. Confirmation shall be made by contacting the military police at the closest military or reserve military installation and providing the person's name, rank, social security number, date of birth, unit designation or station, and any other available information. If the AWOL or desertion status is confirmed and military authorities advise that the proper order exists to hold the person, the person shall be arrested and transported to jail. The military unit requesting detention will be requested to provide a copy of the written order as soon as practicable. The name and rank of the military person requesting the hold shall be included in the booking paperwork at the jail and in the DR; the charge description will be listed as Desertion in violation of Article 86, Uniform Code of Military Justice.

C. When an arrestee is subsequently discovered to be AWOL or a deserter, the above verification and documentation process shall be followed and the arrestee shall also be booked on the AWOL or desertion charge.

1.6.11 Civil Arrest Warrants (non-child support)

A. A "civil arrest warrant" is a court order issued in a non-criminal matter directing officers to arrest a person and bring the person to the court. Civil arrest warrants do not necessarily contain a statutory violation nor will they contain a criminal charge.

B. A civil arrest warrant must be verified with the court prior to service. Generally, unless the warrant specifically states otherwise, a civil arrest warrant may only be served between the hours of 0630-2200. If the contact occurs during this time and the warrant is verified by the court, it shall be served on the person. (At any other time of day, the officer shall simply advise the person of the existence of the warrant but will not serve the warrant.) If the court is in session, the person arrested may be transported directly to the court; otherwise the person shall be booked into jail.

1.6.12 Civil Child Support Arrest Warrants

A. A child support arrest warrant is a court order issued in a child support case directing officers to arrest a person and bring the person to court. Child support arrest warrants may be served at any time of day or night (24 hours a day) and will be executed like any other arrest warrant.

B. Child support warrants may be verified by contacting the Clerk of the Court to verify the warrant and the release amount. If the warrant is valid, the person may be transported directly to the court; otherwise the person shall be booked into jail under A.R.S. §25-681, Civil Child Support Arrest Warrant. The officer shall complete a DR documenting the service of the warrant.

1.6.13 Citizen's arrests

A. Before accepting a person from a citizen claiming to have made a citizen's arrest, an officer shall confirm that the citizen's arrest is lawful. Citizens may make arrests in the following circumstances:

- when the person to be arrested has in the citizen's presence committed a misdemeanor amounting to a breach of the peace (for example, trespass, DUI, assault, threatening and intimidating, and disorderly conduct), or a felony, or
- when a felony has in fact been committed and the citizen has reasonable grounds to believe that the person to be arrested committed it.

B. The officer should, prior to accepting custody of the person, ask the citizen whether or not he/she has made an arrest and, if so, the citizen should advise the person of the cause for the arrest. The officer may then take custody of the person. Once the officer takes custody of the arrestee, the officer must inform the person that he/she is under arrest and provide the reason for the arrest.

C. The involved citizen should be advised that they are not required to sign a criminal complaints, but that they may receive a subpoena to testify in court as a witness.

1.6.14 Telephone calls for arrested persons

A. When a suspect is detained or arrested and transported to a police facility prior to being booked into jail, the suspect should be given the opportunity to make two telephone calls within two hours of the time the suspect arrives at the facility, unless extenuating circumstances exist for postponing the calls (e.g., search warrant is being drawn and contraband may be removed or destroyed if the suspect is allowed to make a call). If the call is delayed due to extenuating circumstances, the relevant specific information shall be included in the DR.

Long distance calls must be paid for by the prisoner (credit card, collect, or by charging to a third number).

B. If a prisoner requests to contact an attorney, officers shall dial the telephone number requested and place the prisoner in a holding cell or similar area with the telephone, in order to ensure the prisoner's right to a confidential conversation with the attorney. The officer shall move far enough away so as not to overhear the conversation, or leave the room, while maintaining visual contact with the arrestee.

If the prisoner is unable to contact an attorney for any reason, the reason shall be noted in the DR and the officer shall discontinue all interrogation concerning the criminal case, complete the booking paperwork and book the prisoner.

C. Telephone numbers called shall be listed on the Arrest/Booking Record if the prisoner is booked or on the applicable reports if the subject is released.

1.7 Racial Profiling; Bias Based Policing

A. It is the policy of this Department to provide services and enforce laws in a professional, nondiscriminatory, fair and equitable manner. The Department does not tolerate discrimination on the basis of race, color, religion, national origin, age (40 and older), sex (including LGQBT+), pregnancy, citizenship status, disability, or genetic information.

The department recognizes that bias can occur at both an individual and an institutional level as well as consciously, implicitly and sub-consciously and is committed to eradicating biased policing in any form.

B. Bias-based policing is the different treatment of any person by officers who are motivated by any characteristic of protected classes under state, federal and local laws as well as other discernible personal characteristics of an individual. For purposes of this policy, "discernible characteristics" include, but are not limited to: age, disability status, economic status, familial status, gender, gender identity, homelessness, mental illness, national origin, race, ethnicity, color, religion, sexual orientation, and veteran status.

C. Officers shall not make decisions or take actions that are influenced by bias, prejudice or discriminatory intent. Law enforcement and investigative decisions must be based upon observable behavior or specific information.

D. Officers may not use discernible personal characteristics in determining reasonable suspicion or probable cause, except as part of a suspect description. Officers may take into account the discernible personal characteristics of an individual in establishing reasonable suspicion or probable cause only when the characteristic is part of a specific suspect description based on trustworthy and

relevant information that links a specific person to a particular unlawful incident. Officers must articulate specific facts and circumstances that support their use of such characteristics in establishing reasonable suspicion or probable cause.

E. Employees shall not express – verbally, in writing or by other gesture – any prejudice or derogatory comments concerning discernible personal characteristic.

1.7.1 Responsibility to Report and Investigate Bias-Based Policing

A. Supervisors and commanders are responsible for ensuring all personnel in their command are operating in compliance with this policy.

B. Employees who have observed or are aware of others who have engaged in bias-based policing shall report such incidents to a supervisor, providing all information known to them, before the end of the shift during which they make the observation or become aware of the incident.

C. If a person alleges bias-based policing, the employee shall call a supervisor to the scene to review the circumstances and determine an appropriate course of action. *For purposes of this policy, an allegation of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any of the discernible personal characteristics listed above.* If the person declines to speak with a supervisor or wishes to leave before the supervisor arrives, the employee will offer the person the supervisor’s contact information and information on how to file a complaint with the Office of Professional Standards. Officers may not detain or extend the detention of a person solely to await the arrival of a supervisor.

D. Where there has been an allegation of bias-based policing, whether from another employee or a community member, the investigating supervisor will document the circumstances of the allegation and the steps that were taken to resolve it. At minimum, if the person involved will provide it, the documentation shall include the person’s name, address, phone number, email address and contact information of witnesses. All documentation shall be forwarded to the Field Services Commander.

E. All complaints of bias-based policing shall be handled in accordance with [52.1](#) “Investigation of Complaints of Employee Misconduct” and with [26.5](#) “Discipline” as appropriate.

1.7.2 Review of Department Practices

A. The Department is committed to eliminating policies and practices that have an unwarranted disparate impact on protected classes. It is possible that the long-term impacts of historical inequality and institutional bias could result in disproportionate enforcement, even in the absence of intentional bias. The Department's policy is to identify ways to protect public safety and public order without engaging in unwarranted or unnecessary disproportionate enforcement.

B. The Office of Professional Standards, with the assistance and input of supervisors and commanders, shall review available data from law enforcement practices – including stops, citations and arrests – to identify any practices that may have disparate impact. Alternative enforcement practices will be implemented when identified and available.

1.7.3 Interactions with Transgender and Gender Non-Conforming Persons

The purpose of this policy is to provide guidelines for the appropriate treatment of transgender individuals who department personnel come into contact with and/or require the service of this Department. Members of this Department are to treat all persons with respect, dignity and professionalism. Members shall not engage in activity that serves to unduly embarrass, humiliate or otherwise shame any individuals, including transgendered individuals, with whom we come into contact.

1.7.3.1 Definitions

The definitions provided here are not intended to label individuals, but rather to assist in understanding and applying this policy.

1. LGBT: A common abbreviation that stands for Lesbian, Gay, Bisexual, and Transgender. It should be noted that lesbian, gay and bisexual are all identifications defined by a person's sexual orientation, while transgender identification has to do with a person's gender identity. Sexual orientation and gender identity are two independent and separate characteristics.
2. Sexual Orientation: A person's physical and emotional attraction to people of the same and/or other gender. Straight, gay, lesbian, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people may identify as straight, gay, lesbian, or bisexual, just like non-transgender people.
3. Gender Identity: A person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's

physiology or assigned gender at birth. It is an internal sense of one's own gender, which may not necessarily match traditional definitions of male or female.

4. Gender Expression: An individual's external social characteristics and behaviors related to gender (such as name, preferred pronouns, appearance, dress, mannerisms, speech, and social interactions), which may be perceived as masculine, feminine or androgynous.
5. Transgender: Individuals with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth, but who identifies as female, is a transgender woman. Likewise, a person assigned the female sex at birth, but who identifies as male, is a transgender man. Some individuals who would fit this definition of transgender do not identify themselves as such, and identify simply as men and women, consistent with their gender identity. The guidance discussed in this policy applies whether or not a particular individual self-identifies as transgender.
6. Gender Non-Conforming: Individuals who display gender traits which are not generally associated with the sex assigned to them at birth. Gender non-conforming individuals may or may not identify as male, female, or transgender. Also known as gender-variant, gender fluid or androgynous.
7. Transition: The process of changing one's body from the sex that was assigned at birth to match one's gender identity. Avoid the phrases "sex change," "pre-op," and "post-op" when referring to a transition.
8. Intersex: The general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't seem to fit the typical definitions of female or male.

The terms homosexual, transsexual, transvestite, and sexual preference are outdated or defamatory terms which are seen as offensive by many people. These terms should not be used when speaking to or about the LGBT community.

1.7.3.2 Forms of Address

Department employees are to interact with transgender and gender non-conforming people in a manner that is professional, respectful, and courteous.

Employees shall follow these policies when either of these two conditions are met:

1. A person informs an employee that he/she is transgender or gender non-conforming.
2. An employee has good reason to believe the individual is a transgender person or gender non-conforming. Good reason may be based on gender expression and presentation, reasonable observations, prior interactions, and/or background checks.

Every individual has the right, upon request, to be addressed by the person's adopted name, whether or not that name has received legal recognition. In addressing or discussing a transgender person, officers will use the pronouns appropriate to the person's gender identity. If the officer is uncertain about which pronouns are appropriate, the officer will respectfully ask the individual their preferred pronoun and use the pronoun that corresponds to their gender identity (for instance, "What name and pronouns would you prefer I use when I address you?").

Whether or not the name on a person's driver license or identification card coincides with the person's gender identity, employees shall address and refer to the person by the name and gender that person has used to identify him or herself.

Additionally, if the name on a person's driver's license or identification card does not correspond with the individual's gender expression, the person shall be asked his or her legal name in a private conversation, absent extenuating circumstances. If the contact is made in a group environment, the person shall be asked to step outside the group in order to obtain the legal name and avoid embarrassing the individual. Officers who need to obtain the legal name of a detained individual or suspect shall ask, "What is your legal name or birth name?" rather than asking, "What is your 'real' name?"

The intentional or persistent refusal to respect an individual's gender identity (for example, intentionally referring to the person by a name or pronoun that does not correspond to their gender identity) constitutes harassment and violates this policy.

Employees are cautioned not to treat a person's transgender status or appearance as a basis for suspicion or as evidence of prostitution or any other crime. Transgender individuals are not more likely to be involved in illegal activities than non-transgender individuals.

1.7.3.3 Calls For Service

Calls for service or complaints generated by transgender individuals shall be addressed and investigated in a manner that is consistent with all Department policies. No officer shall fail to respond to a call for service based on the gender identity of the caller.

1.7.3.4 Documentation

When writing a report, completing booking paperwork, or completing any other required official documentation involving a transgender person, officers should use the person's legal name and gender on the face page of the document, listing the person's adopted name as an AKA. The narrative of a report shall then begin with a clear statement that the person uses an adopted name rather than his/her legal name. The remainder of the report shall refer to the person by his/her adopted name and self-identified gender.

1.7.3.5 Privacy

Personnel shall not ask victims, witnesses, informants, community members, and fellow employees about the current medical status of their gender transition process. This is an extremely private issue and shall be respected as such. Also, under no circumstances shall an employee disclose that a person is transgender to non-law enforcement personnel, with the exception of medical personnel when appropriate, or to other relevant non-Department personnel. Department personnel shall not ask questions or make statements about a transgender person's genitalia or surgical status.

When booking a transgender inmate, information regarding the individual's gender identity shall respectfully be transmitted to booking personnel.

1.7.3.6 Searches

For the purpose of all lawful searches of a person, officers shall use standard practices and procedures. If the transgendered person requests an officer of a specific sex do the search, that request will be honored when it is feasible to do so. A search or frisk shall not be performed for the sole purpose of determining an individual's anatomical gender, and transgender individuals shall not be subject to more invasive search or frisk procedures than non-transgender individuals.

1.7.3.7 Transportation; Holding Cells

When feasible, a transgendered person who is to be transported shall be transported alone. Similarly, when feasible a transgendered person shall be placed in an individual holding cell or interview room without the presence of other arrestees.

1.8 Use of Force

Employees shall treat all members of the public with whom they have contact equally, without bias and in adherence with the rights afforded by the United States Constitution, federal law, and the Constitution and laws of the State of Arizona.

Officers must understand their authority and the limits placed upon their authority. This is especially true when it comes to the use of force by a police officer.

1.8.1 Constitutional authority for Use of Force in Law Enforcement

The United States Supreme Court has made it clear that law enforcement is entitled to use some degree of force in the enforcement of laws: “the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” (*Graham v. Connor*, 490 U.S. 386 (1989)).

The Court also gave guidance for determining whether the force used was “objectively reasonable.”

The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

It is with these ideas in mind that the use of force in any particular situation is to be judged. When this policy refers to an officer using force only when it is “reasonable” to do so, it is this process which is being referenced.

1.8.2 Arizona law

Arizona statutes that address justification for the use of physical force are:

- A.R.S. §13-409 Justification; use of physical force in law enforcement
- A.R.S. §13-410 Justification; use of deadly physical force in law enforcement

1.8.3 Policy

A. Officers may only use force that is “objectively reasonable;” this means force that reasonably appears appropriate based upon the facts and circumstances as perceived by a reasonable officer on the scene. In other words, the threat or impending use of force reasonably appears imminent (based on articulable facts) and inaction poses an unreasonable risk. The officer using force must be able to articulate why the force used was “objectively reasonable” under the circumstances.

B. Officers should determine the amount of force to be used based upon the law, sound judgment, their training and experience and with respect for the sanctity of human life. The use of force is not a subjective determination left to the complete discretion of the involved officer. The officer must only use that force which a reasonably prudent officer would use under the same or similar circumstances.

C. It is neither the policy of the Department, nor the intent of this policy, that officers unnecessarily or unreasonably endanger themselves or others. Officers may either escalate or de-escalate the use of force as the situation progresses or circumstances change. The type and amount of force used must be within the range of "objectively reasonable" options. When a subject is under control, either through the application of physical restraint or the suspect's compliance, the degree of force shall be de-escalated accordingly.

D. Under no circumstances will the force used be greater than what is “objectively reasonable” to achieve lawful objectives and to conduct lawful public safety activities. Officers will be held accountable for their action, as well as inaction, when using force in the execution of their duties.

E. Officers have a duty to intervene when unreasonable/unlawful force is applied by another Department employee. The duty to intervene applies when an officer has a realistic opportunity to prevent or stop the use of excessive force.

F. Officers have a duty to immediately report to a supervisor any member of the Department who they believe, or have information that, the department employee used unreasonable/unlawful force.

G. Officers are expected to ensure appropriate medical aid is rendered in all incidents involving the use of force when it is safe to do so.

H. It is not possible for any written policy statement concerning an officer's use of force to cover all of the fact scenarios that may occur during the performance of an officer's duties. While there is no way to specify the exact amount or type of force that is reasonable to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

1.8.3.1 De-escalation

A. When safe under the totality of the circumstances, and time and circumstances permit, officers shall use de-escalation tactics, tools, and/or techniques in order to reduce the need for force. De-escalation tactics, tools and techniques are actions, equipment and words used by officers, when safe and without compromising law enforcement priorities, that seek to stabilize the situation and minimize the immediate threat and the likelihood of the need to use force, additional force, or an increased amount of force during an incident and may increase the likelihood of voluntary compliance.

1. Good communication skills, patience and compassion resolve many situations. A soft, deliberate voice conveys emotional control and may diffuse situations, where a condescending or challenging tone of voice may escalate many situations.
2. When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available to resolve the incident.
3. When time and circumstances reasonably permit, officers shall consider whether a subject's lack of compliance may be a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
 - a. Medical conditions
 - b. Mental impairment
 - c. Developmental disability
 - d. Physical limitation
 - e. Language barrier

- f. Drug interaction
- g. Behavioral crisis

An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident facing the officer when deciding which tools, tactics and techniques are the most appropriate to bring the situation to a safe resolution.

- 4. Mitigating the immediacy of the threat, when reasonable, gives officers time to utilize additional available resources, and the time to call for additional available resources or officers. The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used.
- 5. Examples include:
 - a. Placing barriers between an uncooperative subject and an officer
 - b. Containing a threat
 - c. Moving from a position that exposes officers to potential threats to a safer position
 - d. Decreasing the exposure to potential threat by using
 - 1) Distance
 - 2) Cover
 - 3) Concealment
 - e. Communication from a safe position intended to gain the subject's compliance, using:
 - 1) Verbal compassion and persuasion
 - 2) Advisements
 - 3) Warnings
 - f. Avoidance of physical confrontation, when objectively reasonable given the immediacy of the threat (for example, to protect someone, or stop dangerous behavior)
 - g. Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making
 - h. Calling extra resources or officers to assist:
 - 1) CIT officers
 - 2) Officers equipped with less-lethal tools
 - 3) Crisis counselors
 - i. Any other tools, tactics and techniques that attempt to achieve law enforcement objectives by gaining the compliance of the subject

1.8.4 Determining the amount of force that is “objectively reasonable”

A. The most important circumstances that may influence the type of force used by an officer, and that should be documented by the officer in a department report following the use of force, shall include:

1. whether the subject poses an immediate threat to the safety of the officers or others, including the behavior and actions of the subject, such as resistive actions, aggressive acts, weapons known or reasonably believed to be available to the subject, etc. This is the most important factor.
2. the nature of the offense, including the severity of the crime and the level of violence.
3. whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Additional circumstances that may influence the amount of force used by an officer include, but are not limited to:

4. what the subject is doing or saying that creates a reasonable concern for the safety of the officer or others.
5. apparent abilities of the subject and the officer, including size, age, fighting skills known or exhibited, unusual strength or resistance to pain that may be associated with drugs or alcohol ingestion, injuries, conditioning, and level of exhaustion.
6. the use of weapons, availability of weapons, or the threat to use weapons the subject may reasonably have access to.
7. whether the subject has a known history of violent behavior.
8. whether more than one suspect or officer is involved or readily available to assist.
9. the potential for injury to citizens, officers, and suspects.
10. whether other dangerous or exigent circumstances exist at the time of arrest.

1.8.4.1 Examples of Types of Resistance That May Be Encountered

A. Psychological and/or Physical Intimidation. Psychological and/or physical intimidation includes non-verbal cues indicating the subject’s attitude, appearance, and physical readiness, which may include, but are not limited to:

1. clenched fists; puffing up the chest,
2. assuming a fighting stance by turning sideways, widening foot stance, etc.,
3. facial expressions that may warn an officer of the subject's emotional state.

This is often referred to as "body language," which may influence an officer's decision on how to approach a subject or what amount and type of force to use if the subject starts to resist a detention or arrest. These non-verbal actions often provide valuable information to an officer of a subject's potential for violence when the subject has not made verbal threats.

B. Verbal Non-Compliance. Verbal non-compliance includes verbal responses indicating the subject's unwillingness to comply with direction and may include verbal threats made by the subject.

The objectively reasonable reaction to verbal threats made by a subject depends on the specific facts faced by an officer and the totality of the circumstances. An officer's decision regarding the reasonable force appropriate to control a subject will be based in part on the officer's perception of the verbal threat and the subject's apparent ability and willingness to carry out that threat, as well as the officer's knowledge of his or her own capabilities to manage the threat presented.

C. Passive Resistance. Passive resistance includes physical actions that do not directly prevent the officer's attempt at control. When using passive resistance, the subject never makes any attempt to defeat the physical actions of the officer. Passive resistance is usually in the form of a relaxed or "dead weight" posture intended to make the officer lift, push, or pull the subject to establish control.

D. Active Resistance. Active resistance includes physical actions, other than solely running prior to physical contact, that attempt to prevent the officer's control, but do not involve direct attempts to assault the officer. For example, the subject attempts to push or pull away in a manner, stiffens up, and/or hides their hands in a manner that does not allow the officer to establish control. However, the subject does not attempt to assault the officer.

E. Active Aggression. Active aggression includes behavior that is a physical assault on the officer or another, where the subject prepares to strike, strikes, or uses other physical techniques in a manner that may result in injury to the officer.

F. Aggravated Active Aggression. Aggravated active aggression includes a physical assault on the officer or another person in a manner that creates a substantial risk of causing serious physical injury or death.

1.8.4.2 Types of Force

Legally there are two types force used by police officers. Case law generally refers to deadly force and non-deadly force. A.R.S. 13-105 defines both 15. "Deadly weapon' means anything designed for lethal use, including a firearm" and 32. "Physical force' means force used upon or directed toward the body of another person and includes confinement, but does not include deadly physical force." Officers must understand that weapons, techniques, tools and/or tactics that fall under the terms non-deadly force and physical force can cause injury, but when used as designed and intended, have less potential for causing death or serious physical injury than deadly force weapons, techniques, tools and/or tactics.

A. Officers must be aware that any type of resistance may quickly escalate and may require a different amount and/or type of force to overcome the resistance/aggression, including deadly force. Any training in the amount and types of force, when to deploy force, or how to deploy force shall be done by trainers authorized by the department. When the use of authorized weapons or techniques taught by the department-authorized firearms and defensive tactics instructors are not practical, officers confronted with aggravated active aggression may resort to any reasonable method to overcome the attack.

B. When practical, any use of force, other than officer presence and verbal direction, should be preceded by a verbal warning that force will be used if the suspect does not comply. The warning is unnecessary if it will endanger an officer or if the officer documents why it was not objectively reasonable to give away a tactical advantage. The officer employing force need not be the officer giving the warning.

C. Types of force that the officer may use include:

1. Officer Presence. The officer is clearly identified as an officer and his/her authority is established by presence in uniform, or by verbally identifying him/herself, and when possible, clearly displaying a badge or identification.

The presence of a police canine at a scene falls under this category.

2. Verbal Direction. Verbal direction is communication by the officer intended to control the actions of a subject, including direction, persuasion, negotiation or commands.

3. Empty Hand Control. Empty hand control is a phrase that incorporates a number of subject control methods. These may be as simple as gently guiding a subject's movement, or more dynamic techniques such as strikes. Empty hand controls are divided into two categories:
 - a. Soft control techniques, which present a minimal risk of injury. Generally, these techniques are used to control passive or active resistance. However, soft control techniques can be utilized for any level of resistance if tactically appropriate and legally permissible. Soft control techniques may include, but are not limited to:
 - 1) Handcuffing or the use of other authorized restraint devices.

 - 2) Control Holds – involving pain compliance, including wrist locks, joint locks, pressure points, and other authorized techniques.

 - b. Hard Control Techniques, which may cause physical injury. These techniques are usually applied when lesser forms of control have failed or are not applicable because the suspect's initial resistance is at a heightened level. In such situations, officers may risk injury to themselves or may need to escalate force if hard control techniques are not used. Generally, these techniques are used to control active aggression, although these techniques may be used in some situations when facing active resistance. Officers will first attempt verbal persuasion and soft empty hand techniques when practical.
 - 1) Hard control techniques may include, but are not limited to:
closed fist

strikes, hammer fist strikes, palm strikes, elbow strikes, knee strikes and kicks. Officers shall target large muscle groups with strikes and kicks.

Hard control techniques should not be intentionally used on the suspect's head, neck, kidneys, groin, joints, spine, or sternum. While there may be situations that will justify a strike to these areas, the officer must be able to specifically articulate the facts and circumstances that supported the strikes to those areas. When hard control techniques are applied to these areas and the subject is under control he or she shall be asked if they want medical assistance, unless the need is obvious. If the need is obvious or the subject asks for medical assistance, medical assistance will be sought and a supervisor will be notified. If the subject is booked, jail staff will be advised of the use of force and it will be noted on the booking slip.

2) "Take Downs." A take down is the forceful direction of the suspect to the ground. Generally, these techniques are used to counter active resistance or active aggression.

4. Non-deadly Weapons. Non-deadly weapons provide a method of controlling subjects when deadly force is not justified. They are generally used when empty hand control techniques are either not sufficient or not tactically the best option for the safety of the officer, the suspect, and/or others. However, they can be used whenever reasonable to do so. When non-deadly weapons are used, injury is likely and appropriate medical care shall be provided.

Officers should not use authorized non-deadly weapons unless they have received the required training for both when and how the weapons are used. Authorized non-deadly weapons include electronic control devices, police canines, impact weapons, chemical agents and specialized non-deadly ammunition. Approved non-deadly weapons include Taser, police canine, expandable baton, non-flammable OC, and pepperball rounds.

a. Oleoresin Capsicum (OC) spray and Chemical Agents. These are generally used when reasonably appropriate to subdue a person who

is threatening or attempting physical harm to himself or others, resisting or interfering with an arrest, to disperse an unruly crowd, to prevent an attack by an animal or to prevent rioting or disperse rioters. The department authorized chemical agents include Defense Technology MK-4 .2% stream. OC spray that contains alcohol or any other flammable ingredients shall not be used.

1) The following are guidelines for the use of OC spray:

OC spray may be used against subject(s) who are using, at a minimum, active resistance.

- Direct a one-second burst directly to the face.
- When possible, spray from a distance that allows the spray to atomize, usually three feet.
- Do not spray from a distance of *more than 12* feet or less than 3 feet.
- Assess the effect and reasonableness of additional applications prior to spraying additional times.

Following use of the spray:

- When possible and when such an area is reasonably available, the subject should be handcuffed and removed from the exposure area to a well-ventilated area.
- Assistance should be requested from medical personnel.
- Unless the subject refuses and if available, flush the face with water and/or apply a wet towel to the face.
- Do not leave the subject unattended.
- Keep the subject in a freestanding or upright position. Do not lay the subject on the stomach while transporting.

2) The use of other chemical agents including pepper ball guns and CN (chloroacetophenone) and CS (Orthochlorobenzalmononitrile) gas requires additional specialized training prior to any officer being authorized to deploy them. The training will include prescribed first aid

measures for any person exposed to these chemical agents. The department will maintain records of those employees trained and authorized to use chemical agents.

b. Impact Weapons. Impact weapons are generally used when the officer is facing active aggression or aggravated active aggression. Passive resistance such as an arrestee's refusal to enter or exit a vehicle or holding onto a fixed object to avoid accompanying an officer, etc., is not sufficient in itself to justify the use of impact weapon strikes.

1) The types of authorized impact weapons are expandable baton, side handle baton, and straight baton. *Authorized impact weapons are ASP expandable batons (21" or 26"), straight baton utilized during mobile field force operations.*

2) In exigent circumstances, flashlights may be used as impact weapons. Such use shall be in compliance with the requirements for the use of impact weapons.

3) The primary target for impact weapons shall be large muscle groups and nerve motor points. Officers will not purposely strike or jab subjects with an impact weapon in the head, neck, kidneys, groin, spine, joints, or sternum unless the situation escalates to aggravated active aggression.

c. Specialized Non-deadly Ammunition. This type of ammunition is generally used when officers are facing active aggression or aggravated active aggression. Specialized non-deadly ammunition is most often used in situations where there is a likelihood of injury to the officer, suspect, or a third person. This may include situations where the subject has picked up a rock, bat, or similar item that could incapacitate an officer and keeping a safe distance is advisable.

While specialized non-deadly ammunition is meant to be non-deadly, it is important for officers to understand that this ammunition can be deadly. Officers firing specialized non-deadly ammunition shall be certified to use the ammunition to be deployed and aware of current acceptable target areas and distance.

1) The types of authorized specialized non-deadly ammunition are stun-bag rounds, flex baton rounds, sabot (rubber ball) rounds, pepper

balls, and sage SL-6. *Authorized non-deadly ammunition is 12 gauge bean bag rounds, and pepper ball rounds.*

Stun-bag and flex baton rounds are fired from a standard 12 gauge shotgun, modified in appearance, that is intended to fire only non-deadly ammunition. The only modification to the shotgun is the replacement of the black stock with a orange stock. This color change allows officers to easily identify that the shotgun is for non-deadly purposes.

2) Only officers who have been trained, qualified, and are authorized in the use of non-deadly ammunition may deploy non-deadly ammunition.

3) The primary target area for non-deadly munitions fired from a shotgun is the lower abdomen, arms below the elbow, buttocks or legs of the suspect. Secondary target areas include the arms above the elbow, back (excluding the spine) and the knees of the suspect. Officers shall not intentionally target any other area.

4) When specialized non-deadly ammunition is deployed, the deploying officer shall, if practicable, ensure he/she has another officer present to provide lethal cover. Prior to firing the specialized non-deadly ammunition, the officer shall announce his or her intention to fire in order to alert the lethal cover officer(s) and other officers present.

Each type of specialized non-deadly ammunition also has range requirements:

Pepperball Rounds:

- i. Live Rounds (Red/White) 0-60 feet direct impact, 150+ feet area saturation
- ii. CS Rounds (White/Blue) 0-60 feet direct impact, 150+ feet area saturation.
- iii. Inert Rounds (White/Purple) 0-60 feet direct impact, 150+ feet area saturation
- iv. Live X Rounds (Red/Black) 0-60 feet direct impact, 150+ feet area saturation

- v. CS/PAVA Rounds (Blue/Red) 0-60 feet direct impact, 150+ feet area saturation

When firing the specialized non-deadly ammunition, the firing officer should be aware that follow up shots may be required if the previous rounds miss or fail to incapacitate the suspect. Prior to firing additional shots, the officer shall assess the reasonableness of each additional shot before firing.

Officers shall not fire stun bag or sage rounds through any barrier (i.e., glass, fence, wall, etc.) as the rounds could tear, releasing lead shot.

Firing the sabot round or stun bag round at a suspect at a range of less than five yards is considered the use of deadly physical force.

d. Electronic Control Device. Department authorized and issued electronic control devices may be deployed when reasonable against a subject engaging in acts of active aggression or aggravated active aggression, to prevent a person from seriously harming him/herself, or to prevent a known violent felon from escaping.

1) Officers shall deploy the electronic control device only as long as reasonable. Absent an on-going threat to officer safety, the primary objective is to approach the suspect and restrain him/her while under power, if possible, so that the suspect can be taken into custody safely.

2) The electronic control device is designed to continue to cycle as long as the trigger is depressed. When practicable, officers deploying the electronic control device shall assess the effectiveness of the electronic control device after the initial application, prior to administering additional cycles to the suspect.

3) When a subject is displaying active resistance, or higher levels of force, the electronic control device may be activated and displayed as a visual deterrent.

4) Prior to use of the electronic control device:

a) When circumstances permit, the officer shall advise the subject that, if the subject's disruptive behavior does not cease, the electronic control device will be used.

b) When possible, officers shall announce their deployment of the electronic control device as a safety precaution to any officers providing cover with firearms.

c) In inter-agency operations, officers shall confirm that officers from another agency have not used flammable OC spray on the subject prior to deploying the electronic control device.

5) The electronic control device shall be carried/secured by each employee using an authorized duty holster, on the opposite side from the primary firearm or as authorized on a vest carrier.

6) Person(s) authorized to carry the electronic control device should upon issuance and at least weekly perform a spark test and inspect the weapon for proper functioning, battery charge, and count of cartridges. The lead electronic control device instructor or officer's supervisor shall be responsible for inspecting the weapon on a quarterly basis.

7) Methods of deployment.

The courts have separated the two methods by which an electronic control device may be deployed:

a) Drive stun, which involves contact with the suspect (but not contact to complete a circuit), is a pain compliance tool and the courts have not clarified the level of force involved.

b) Probe deployment, which involved firing the cartridge from a distance, which is an intermediate, significant level of force. (see Bryan v. MacPherson, 9th Cir. 2010)

8) Target areas for deployment:

a) the subject's back, below the neck to the legs, if practicable.

b) the subject's side or front, splitting the belt line (one probe into the lower chest area and one below the pelvic region or into the upper thigh).

- c) officers will not intentionally target the face or genitals.

9) Considerations prior to additional deployments:

Unless the subject responds to the ECD deployment with an immediate return to active/aggravated aggression, officers should,

- a) give the subject time to comprehend and comply with the commands being given.
- b) consider factors (intoxication, drugs, mental disability, etc.) that may interfere with comprehension and compliance.
- c) consider alternative tools, techniques and/or tactics to gain compliance.

10) Officer's responsibilities following deployment.

Once the subject has been taken into custody, officers will (while wearing latex gloves), remove the probes, unless the probes have penetrated the neck, face or groin area. In that case, officers will either call paramedics to the scene or transport the subject to the hospital for probe removal. Once the probes have been removed, the subject shall be transported to jail.

If an officer uses three or more cycles of the device on a subject, either paramedics will be called to the scene or the subject will be transported to the hospital to be medically evaluated.

11) The electronic control device shall not be deployed unless the officer can document why the device's use was objectively reasonable to prevent serious physical injury or death of any person on:

- a) a subject who is in danger of falling from a significant height (e.g., one who is on a tree or roof).
- b) a subject who is near flammable liquids or gasses (including alcohol based OC spray).

c) any subject that is fully secured in restraints (i.e., handcuffs, RIPP, Zip-ties, etc.).

d) females who are or are believed to be pregnant.

e) persons who appear frail, a juvenile, or a person who is operating a motor vehicle, unless reasonable to prevent serious physical injury or death.

f) To awaken a sleeping, unconscious, or intoxicated person.

e. Canines. The use of a police canine is considered a non-deadly use of force when properly deployed. However officers must be aware that the Ninth Circuit Court of Appeals has held that the improper use of a canine may amount to the use of deadly force. The appropriate use of a canine is detailed in the department's canine policy.

5. Carotid Control Technique.

Carotid Control Technique is prohibited except in those situations where the use of deadly force is allowed by law. The carotid control technique is designed to reduce the flow of oxygenated blood to the brain. If oxygenated blood flow to the brain is cut off for four to six minutes, irreparable brain damage may occur. The carotid control technique will not be used on a suspect more than one time.

a. When a subject is rendered unconscious, officers will immediately handcuff the subject. Officers will then roll the subject on his/her side and check for vital signs. Recovery time will vary, but usually takes 20-30 seconds.

b. Officers will also immediately summon paramedics to the scene. Officers will provide cardiopulmonary resuscitation (CPR) if necessary and will remove the handcuffs prior to providing CPR.

c. Transporting employees will notify anyone taking custody of the suspect that the carotid control technique was used and document that the notification was made.

6. Pointing Firearms at a Person/s.

Pointing a firearm at a person is a use of force, therefore officers shall not point a firearm at a person unless it is objectively reasonable to believe that it is necessary to protect against a potential threat. Unholstering or displaying a firearm, including at a low-ready position without pointing it at a person, does

not constitute pointing a firearm at a person/s. Firearms shall be secured or holstered as soon as possible after the potential threat has ended. Pointing a firearm at a person shall be documented as a use of force encounter.

7. Deadly Force.

Deadly force is force that creates a substantial risk of causing death or serious bodily injury. ” See *Smith v. City of Hemet*, 394 F.3d 689, (9th Cir. 2005). This is also the definition of aggravated active aggression. Additionally, A.R.S. 13-105.14 defines deadly force as: “force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.”

a. Techniques. Officers are taught during their academy training about reasonable force, deadly force, warning shots, when and how to use non-deadly weapons and when and how to use deadly force and firearms. Use of a firearm is not the only means of employing deadly force; it may become appropriate for officers to protect themselves or others with means other than a firearm. When the use of techniques taught by the department is not practical under the circumstances, officers may resort to any reasonable means to overcome aggravated active aggression.

b. Authorized Use of Deadly Force. The use of deadly force must meet both the federal and state legal standards:

1) Federal standard- When objectively reasonable to protect the officer or a third person from another’s use or threatened imminent use of deadly force, or to arrest or prevent the escape of a suspect “where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others.” *Tennessee v. Garner*, 471 U.S. 1, (1985).

2) State standard - A.R.S. 13-410.C states:

C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:

1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.

2. To effect an arrest or prevent the escape from custody of a person whom the peace officer reasonably believes:

(a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon.

(b) Is attempting to escape by use of a deadly weapon.

(c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay.

(d) Is necessary to lawfully suppress a riot if the person or another person participating in the riot is armed with a deadly weapon.

c. Use of Firearms. When the use of a firearm on a suspect appears imminent officers will, when practical, issue a verbal warning.

1) Officers may discharge a firearm in connection with police duties:

a) At department approved range training,

b) To kill an imminently dangerous or seriously injured animal,

c) When approved by a supervisor under special circumstances for tactical purposes, when other reasonable alternatives are not available (for example, to shoot out a street light at a scene to protect police personnel or to disable a vehicle prior to anyone entering or getting close to the vehicle). Such uses are rare and will be carefully evaluated by the chain of command, or

d) When deadly force is authorized, as stated above.

2) Officers will not:

a) Unnecessarily draw or display a firearm, or carelessly handle a firearm.

b) Generally, fire warning shots.

c) Use a firearm under circumstances in which a substantial and unjustifiable risk of serious physical injury or death to bystanders exists.

- d) Deliberately place themselves in the path of a moving vehicle or one prepared to immediately move.
 - e) Fire at a moving vehicle unless deadly force is being used against the officer or a third person and the use of deadly force does not create a substantial and unjustifiable risk of serious physical injury or death that outweighs the benefit of its use. In such cases the deadly force shall be directed at the driver or occupant using the deadly force, as appropriate.
 - f) Fire from a moving vehicle, unless deadly force is being used against the officer or a third person and the use of deadly force does not create a substantial and unjustifiable risk of serious physical injury or death that outweighs the benefit of its use.
- 3) De-escalation required. Once the threat of serious physical injury or death has passed, the officer will de-escalate the force as reasonable, using approved non-deadly force/tactics.
- 4) Following the use of deadly force:
- a) If a person is injured by the use of deadly force, medical assistance will be summoned. If the scene is not secure, the medical assistance will be directed to a secure area nearby until it is safe to proceed.
 - b) Officers who have used deadly force that resulted in serious physical injury or death shall be removed from active duty, for their well-being and for administrative and investigative purposes. The removal from active duty shall be for no less than 2 shifts and may last as long as the duration of the investigation, as deemed appropriate by the Police Chief. Officers who have used deadly force that did not result in serious physical injury or death may be removed from active duty, for their well-being and for administrative and investigative purposes, as deemed appropriate by the Police Chief.

1.8.5 Physical Restraint Devices

A. Restraint Devices

1. Restraint devices are intended to prevent a person from, among other things:
 - a. leaving the scene of a lawful investigative detention or arrest.
 - b. initiating or escalating violence against the officer, another person and/or themselves.
 - c. destroying evidence or property.

2. Unless medical circumstances reasonably preclude the officer from placing a person in a restraining device, officers shall restrain individuals as appropriate in accordance with the Fourth Amendment. As soon as practical, a restrained person shall be placed in an upright position. The only exception is for transportation by a medical transport.

3. Handcuffs:
 - a. Only Department approved handcuffs are authorized for use by department personnel. Officers shall carry at least one set of handcuffs; additional handcuffs may be carried at the officer's discretion. All handcuffs must be carried in Department approved carriers.

 - b. Handcuffs shall be doubled locked to avoid injury to the suspect. If a suspect complains that the handcuffs are too tight, officers will check the handcuffs. Generally, officers should be able to slide a finger between the suspect's wrist and the handcuffs.

 - c. Barring unusual circumstances, or prisoner transport by detention personnel to and from court or another holding facility, a person shall be restrained by handcuffs with the person's arms behind his/her back with the palms facing out.

4. Alternative Restraint Device. Only department-approved devices may be carried and used by department personnel. Alternative restraint devices may be carried on the duty belt in a department approved carrier that protects the device from being easily grabbed or hooking on an object.

Alternative restraint devices, including “Zip-ties,” may be used when handcuffing a person is not sufficient to minimize the risk of injury or the destruction of property, in mass arrest situations, in exigent circumstances, or otherwise when reasonable to do so. When an officer does not have handcuffs available, that officer may utilize alternate restraint devices to secure a person. If Zip-Ties are used, they shall be removed as soon as practical and replaced with handcuffs.

For prisoner transport and court appearances, leg irons may be used to prevent prisoner mobility.

5. Officers will not restrain subjects with their legs tied behind their backs (hog-tying).

1.8.6 Deadly Force

A. Deadly force is defined as any application of force that in the manner of its use or intended use creates a substantial risk of causing death or serious bodily injury.

B. The use of deadly force may be justified under the following circumstances:

1. An officer may use deadly force to protect him or herself or others from what the officer reasonably believes is an imminent use or threatened use of deadly force;
2. An officer may use deadly force to affect the arrest or prevent the escape of a suspected felon where the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others unless apprehended without delay. Under such

circumstances, a verbal warning should be given prior to the use of deadly force, when feasible.

C. Use of a firearm is not the only means of employing deadly force; it may become necessary for officers to protect themselves or others with means other than a firearm. When the use of techniques taught by the department is not practical under the circumstances, officers may resort to any reasonable means when deadly force is justified.

1.8.6 Proficiency in the Use of Force

A. Officers must demonstrate proficiency through training at least every year for defensive tactics and all non-deadly weapons the officer is issued or authorized to use.

B. Defensive tactics instructors, who should be appropriately trained and certified, shall document whether an officer is proficient or needs remedial training in any area. The instructor shall also review policy changes at the first available training after the changes have been made and document the fact that current policy regarding use of force has been reviewed annually.

C. If remedial training is required, the officer shall not be allowed to carry the non-deadly weapon/s or firearms until the remedial training is provided and the officer is determined to be proficient. Additional action (placement on administrative leave; transfer to another assignment) may be taken, as deemed appropriate by the Chief.

The instructor shall document the method of remedial training and forward all documentation to be placed in the officer's personnel (if placed on leave or temporarily reassigned) and/or training file.

1.8.7 Use of Force Reporting and Review

A. Any time an officer uses force, including the use of non-deadly or deadly weapons or techniques, the officer shall examine any person(s) appearing or claiming to be injured and render first aid if appropriate. Medical assistance should be called if requested or appropriate.

B. An officer shall notify a supervisor as soon as possible regarding the use of force, other than for training or recreational purposes, in these situations:

1. any use of force above or beyond the use of presence, commands, and/or soft (empty hand) control techniques,

2. if the officer is injured, if the person on whom the force was used is injured, or if any other person is injured as a result of the officer's conduct and/or
3. the discharge of a firearm regardless of whether anyone was injured.

C. Documenting the use of force.

1. Officers respond to situations where the officer is present and may give commands, but no department report is appropriate.
2. If a departmental report is appropriate, officers will document in their department reports any use of force, other than for training or recreational purposes that results in the use of officer presence, verbal direction, soft empty hand control, the use of restraint devices, and any situation in which the officer points their firearm at another person. Reports shall include any efforts made to de-escalate the situation.
3. In all situations resulting in use of hard empty hand control, non-deadly weapons, canine, carotid control technique, or deadly force, and/or if the officer is injured, if the person on whom the force was used is injured, or if any person is injured or claims to be injured as a result of the officer's conduct, the responding supervisor, or the officer's supervisor if no supervisor responds to the scene, has the responsibility of completing, in a timely manner, the department required use of force reports.

The reports will be forwarded through the chain of command to Professional Standards. Professional Standards should ensure that all reported uses of force, meeting the levels of force in paragraph 2 above, are reviewed by the officer's chain of command for adherence to policy.

D. The chain of command shall, where appropriate, make recommendations to the Chief regarding:

1. whether the use of force was within department policy. The chain of command should make this decision taking into consideration the U.S. Supreme Court's direction that an officer's use of force must be judged from the perspective of a reasonable officer on the scene at the time of the use of force. This must allow for the fact that police officers are often

- forced to make split-second judgments--in circumstances that are tense, uncertain, and rapidly evolving--about the amount of force that is appropriate in a particular situation, given the totality of the circumstances.
2. any tactical considerations and/or training recommendations.
 3. if the officer(s) involved had the appropriate training.
 4. whether the training was properly documented.
 5. whether department policy needs to be modified.
 6. the overall quality of supervision the officer received.

E. Professional Standards shall:

1. archive all documentation of uses of force
2. annually review all documentation of uses of force to ensure consistency and completeness.
3. prepare an annual report and analysis documenting
 - a. number of times force (as defined in 1.8.7.C.2) was applied
 - b. type of force used
 - c. whether the force used was within or outside of policy
 - d. any patterns or trends that could indicate training needs, needed equipment upgrades and/or recommended policy modifications.

1.9 Firearms

All sworn employees shall receive and demonstrate understanding of their agencies use of force policy prior to being authorized to carry any firearm or non-deadly weapon and annually thereafter.

1.9.1 Firearms

A. Only sworn employees are permitted to carry firearms while on duty, on City property, or in City vehicles, except when handling firearms as a part of their assigned duties.

B. Officers will not loan their City-issued firearm to another officer without authorization.

C. Off-duty non-sworn employees may carry firearms in compliance with State and federal law. Sworn personnel may carry firearms off-duty in compliance with State and federal law and subject to the following limitations:

1. Department authorized firearms may be carried concealed by officers while off duty. Officers may carry non-approved firearms for sporting or leisure activities, in compliance with State and federal law.

2. Officers who are off duty and not acting in a police capacity who desire to engage in firearms practice/training with a City-owned firearm will:
 - a. use only new or reload commercially produced factory ammunition.
 - b. immediately notify an on-duty supervisor in the event of an accidental or unintentional discharge involving injury or property damage.
 - c. be governed by, and subject to, all provisions of this policy relating to the use and handling of firearms.

D. All firearms carried on or off duty in a police capacity, Department or privately owned, will be unmodified from their original factory condition, except as approved by the Department armorer/firearms instructor(s). Any modification or accessory that interferes with the operation of a weapon may be prohibited. Officers shall submit new accessories and/or modifications for approval prior to use.

1.9.2 Firearms Safety And Security

A. All firearms, whether Department or personally owned, shall be handled and stored safely and securely, both on and off duty.

B. Required safety and security practices include, but are not limited to, the following:

- When not being carried, firearms are to be kept out of view and secured in a safe location at all times.
- Firearms are to be kept out of the reach of children and others.
- Firearms will be unloaded and loaded using a bullet trap located at facilities so equipped. When bullet traps are not available or utilized, officers will use extreme caution when loading and unloading firearms.
- Stunbag/beanbag shotguns may be loaded and unloaded at the trunk of police vehicles.
- Firearms will never be unnecessarily handled or displayed.
- Officers will immediately inspect and unload all firearms coming into their possession unless prohibited by specific circumstances.

- Only employees trained in firearms use and safety requirements will handle firearms.
- All firearms will be unloaded and cleaned prior to being placed in storage.
- If an officer is unsure about a proper unloading procedure, a firearms instructor or the armorer will be contacted.
- Any firearm that is turned in for storage or Evidence for any reason will be rendered safe before being turned in. Officers needing assistance to render a firearm safe will contact the armorer for assistance.

1.9.3 Firearms Qualification

A. Per Arizona Peace Officer Standards and Training (AZPOST) Rule, to maintain state certification as a peace officer all officers, including reserve officers, must qualify annually using all firearms carried in the course of duty by completing an AZPOST-prescribed:

1. firearms qualification course, and
2. target identification and judgment course.

Officers shall also qualify annually with any specialized firearms they are authorized to carry or have available for use. Qualification shall meet AZPOST and agency prescribed courses, if applicable, and shall be conducted by AZPOST certified firearms instructors.

B. Officers will be provided with two opportunities to qualify. Following a second failed attempt, the officer will schedule a time to return to the range to receive remedial training. The officer will then be provided with two additional opportunities to qualify. Officers who fail to qualify following remedial training and a second attempt will not be authorized to carry a firearm in a police capacity, including for secondary work, until they do qualify. Officers who are excused from annual qualification due to injury or approved leave must qualify prior to returning to peace officer duties.

C. A record shall be maintained of each qualification shoot, the course fired, and all scores attained by the officer.

D. Officers will practice sufficiently to maintain their ability to pass annual qualification with all weapons carried in the course of duty.

E. All firearms qualifications shall be conducted by an AZPOST certified firearms instructor.

1.9.4 Handgun Specifications

A. Only the following handguns may be carried on duty.

City issued Glock 17 MOS (Generation 5) with or without optic and any other firearm approved by the Chief of Police or department armorer.

B. The following handguns are approved by the Department for on or off-duty primary use:

City issued Glock 17 MOS (Generation 5) with or without optic and any other firearm approved by the Chief of Police or department armorer

C. The following handguns are approved by the Department for on or off-duty secondary use only:

City issued Glock 26 (Generation 5) with or without optic and any other firearm approved by the Chief of Police or department armorer

D. Officers are authorized to qualify with a maximum of one primary and **one** secondary handguns. Only one primary and one secondary handgun may be carried at any one time.

E. When in uniform, officers shall wear the primary handgun in a standard issue belt holster. Officers not in uniform shall carry their primary handgun on their person or in a manner that is readily accessible. All secondary handguns shall be concealed. Undercover officers will carry firearms as approved by the Chief.

F. No officer may carry a firearm unless the officer has qualified with the firearm within the last year.

1.9.5 Handgun Ammunition

Only Department issued ammunition will be used in primary or secondary weapons carried while on or off duty. In addition, officers shall carry high capacity magazines in all handguns that are designed for high capacity magazines. Handguns shall be carried with a round in the chamber and magazines loaded in the manner instructed by the armorer.

1.9.6 Specialized Firearms

Shotguns (however configured) and rifles are considered specialized firearms and are subject to the following restrictions:

1. No officer may carry a specialized firearm without successfully completing the applicable certification and qualification course, conducted by an AZPOST certified firearms instructor who is qualified on the specialized firearm.
2. Certification on specialized firearms shall be completed annually. A complete record of the certification shall be kept.
3. No specialized firearm will be carried on-duty unless provided by the Department or inspected and approved by the armorer.
4. No ammunition, modifications or accessories may be used, added to or carried with a specialized firearm without the approval of the armorer and the Chief.

Shotguns that are modified to use alternative ammunition (stunbags/beanbags/ etc.) will **only** be for use with those projectiles; lethal ammunition will not be carried on, in, or with these shotguns. The only modification to the shotgun that will alert the user to its assigned use is the replacement of the black stock and forend with a *orange* stock and forend.

1.9.7 Firearms Inspections

A. All officers shall annually present all primary and secondary weapons with which the officer intends to qualify to the armorer for annual inspection. Inspection of Department firearms will be completed according to the manufacturer's standards. The Armorer shall either perform the inspection (if certified in the weapon), or have the weapon inspected by a qualified outside vendor. Issued firearms in need of repair will be repaired by the Department. Personally-owned firearms in need of repair will be repaired by the officer and shall not be carried until repaired and re-inspected.

B. All firearms carried on or off duty in a police capacity, Department or privately owned, will be unmodified from their original factory condition, except as approved by the Department armorer. Any modification or accessory that interferes with the operation of a weapon may be prohibited. Officers shall submit new accessories and/or modifications for approval prior to use.

C. Officers shall immediately report to a supervisor any issued firearm that becomes in any manner unsafe or inoperable. The firearm shall be repaired prior to being returned to an officer for use. Any officer who must surrender a Department issued firearm for repair will be provided with another issued firearm

for use. If the officer has not qualified with the issued firearm, it shall not be carried until qualification is made.

1.9.8 Weapons and Ammunition Tracking

A. No weapon, deadly or non-deadly, shall be assigned for use or used prior to inspection by department armorer

B. All weapons, deadly or non-deadly, and all ammunition shall be tracked and accounted for by training officer

C. Each weapon shall be tracked from receipt by the Department until its use is no longer authorized due to damage, malfunction or wear. Tracking shall include the officer to whom the weapon is assigned, the type, description, identifying model, serial number, each annual inspection and all repairs or adjustments made to the weapon.

1.10 RECORDING POLICE ACTIVITY

Members of the public, including media representatives, have a First Amendment right to record officers in public places, as long as their actions do not interfere with the officer's duties or the safety of officers or others. Officers should assume that they are being recorded at all times when on duty in a public space.

1.10.1 Recording rights and limitations

A. Persons who are lawfully in public spaces or locations where they have a legal right to be present—such as their home, place of business, or the common areas of public and private facilities and buildings—have a First Amendment right to record things in plain sight or hearing, to include police activity. Police may not threaten, intimidate, or otherwise discourage or interfere with the recording of police activities. However, the right to record is not absolute and is subject to legitimate and reasonable legal restrictions, as follows:

1. A reasonable distance must be maintained from the officer(s) engaged in enforcement or related police duties.
2. Persons engaged in recording activities may not obstruct police actions. For example, individuals may not interfere through direct physical intervention, tampering with a witness, or by persistently engaging an officer with questions or interruptions. The fact that recording and/or overt verbal criticism, insults, or name-calling may be annoying, does not of itself justify an officer taking corrective or enforcement action or ordering

that recording be stopped, as this is an infringement on an individual's constitutional right to protected speech.

3. Recording must be conducted in a manner that does not unreasonably impede the movement of emergency equipment and personnel or the flow of vehicular or pedestrian traffic.

B. Before taking enforcement action:

1. Persons who violate the foregoing restrictions should be informed that they are engaged in prohibited activity and given information on acceptable alternatives, where appropriate, prior to making an arrest.
2. Arrest of a person who is recording officers in public shall be related to an objective, articulable violation of the law unrelated to the act of recording. The act of recording does not, in itself, provide grounds for detention or arrest.
3. Arrest of an individual does not provide an exception to the warrant requirement justifying search of the individual's recording equipment or media. While equipment may be seized incident to an arrest, downloading, viewing, or otherwise accessing files requires a search warrant. Files and media shall not be altered or erased under any circumstances.
4. Officers may not order an individual to show recordings regardless of the value or reason the recording was made including those that have been made of enforcement actions or other police operations, unless an exigency threatening human life exists.