



City of San Marcos

630 East Hopkins
San Marcos, TX 78666

Work Session - Final City Council

Tuesday, July 7, 2020

3:00 PM

Virtual Meeting

I. Call To Order

II. Roll Call

PRESENTATIONS

1. Receive a staff presentation and hold discussion regarding the San Marcos Police Department Use of Force policy specifically with regard to the topics highlighted by the "8 Can't Wait" campaign.

III. Adjournment.

POSTED ON MONDAY, JUNE 29, 2020 @ 12:00PM

TAMMY K. COOK, INTERIM CITY CLERK

Notice of Assistance at the Public Meetings

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Legislation Text

File #: ID#20-405, **Version:** 1

AGENDA CAPTION:

Receive a staff presentation and hold discussion regarding the San Marcos Police Department Use of Force policy specifically with regard to the topics highlighted by the "8 Can't Wait" campaign.

Meeting date: July 7, 2020

Department: Police - Chief Bob Klett

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: N/A

City Council Strategic Initiative: [Please select from the dropdown menu below]

N/A

Choose an item.

Choose an item.

Comprehensive Plan Element (s): [Please select the Plan element(s) and Goal # from dropdown menu below]

- Economic Development - Choose an item.
- Environment & Resource Protection - Choose an item.
- Land Use - Choose an item.
- Neighborhoods & Housing - Choose an item.
- Parks, Public Spaces & Facilities - Choose an item.
- Transportation - Choose an item.
- Core Services
- Not Applicable

Master Plan: *[Please select the corresponding Master Plan from the dropdown menu below (if applicable)]*

Choose an item.

Background Information:

On May 25, 2020 Mr. George Floyd died in the custody of the Minneapolis police department after a physical struggle with officers wherein one of the officers placed his knee on Mr. Floyd's neck for an extended period of time while Mr. Floyd was in handcuffs. Mr. Floyd's senseless death while in police custody has led to many questions about police policy and procedure specifically in the area of the use of force. One of the most visible campaigns that has emerged after this incident is the "8 Can't Wait" campaign. This campaign asks City governing bodies to examine the use of force policies of their police departments with regard to 8 specific topics. Those are 1. Ban chokeholds 2. Require de-escalation 3. Require warning before shooting 4. Require officers to exhaust all other alternatives before shooting 5. Require officers to intervene in instances of other officers using excessive force 6. Ban shooting at moving vehicles 7. Require a use of force continuum and 8. Require comprehensive use of force reporting. This tragic incident has also prompted police leaders across the country to take a critical look at their policies and in some instances make some needed changes. The purpose of this work session presentation and discussion is to provide Council with detailed information about several aspects of the SMPD's use of force policy including some recent changes prompted by this event and hold related discussion.

Council Committee, Board/Commission Action:

N/A

Alternatives:

N/A

Recommendation:

N/A

City of San Marcos

City Council Special Meeting

July 7, 2020

Item 1

Receive a staff report regarding certain aspects of the SMPD Use of Force policy; consider recommendation for a policy review team; hold Council discussion, and provide direction to Staff.

8 Can't Wait Initiative

- **Ban Choke Holds and Strangle Holds**
- **Require de-escalation training**
- **Require warning before shooting**
- **Exhaust all other means before shooting**
- **Establish a duty to intervene in instances of excessive force**
- **Ban practice of shooting at moving vehicles**
- **Require a use of force continuum**
- **Require comprehensive use of force reporting**

Hiring

- **Recruiting**
 - Local
 - Social Media
 - Advertising – Traditional and online focussed
 - Looking for diverse communities
 - Texas Commission on Law Enforcement (TCOLE) – Clear standards
 - OUR community standards

Hiring

- **Testing**
 - Written exam
 - Cognitive skills
 - Reading comprehension
 - Memory skills
 - Candidate fitness

Hiring

- **Background process**
 - Extensive Personal History Statement
 - Travel to verify
 - Look at all relevant records
 - Certified officers can not hide from past misdeeds
 - Polygraph
 - Integrity is a key trait

Hiring

- **Interview**
 - Oral Board with experienced staff
 - Communication skills
 - Qualifications
 - Character
 - Final with Chief of Police

Hiring

- **Psychological**
 - TCOLE requirement
 - Independent psychologist

Hiring

- **Physical**
 - City selected licensed physician
- **Drug screen**
 - Independent lab

Hiring

- **Training**
 - Area basic police officer academies
 - Mini-academy
 - Field training program
- **Probation**

Choke and Strangle Holds

- **SMPD Policy - 6.1 Response to Resistance and Aggression
V. Limitations on Force**
- **Recent policy change**
- **Only when deadly force is authorized**

De-escalation Training

- **State mandates**
- **Recent SMPD classes**
- **Police legitimacy**

Require Warning Before Shooting

- **SMPD Policy - 6.1 Response to Resistance and Aggression**
 - IV. Procedures**
 - B. Use of Deadly Force**
- **Real world implications**
- **Deadly force encounters often involve split-second decisions. Human brain cannot speak and act at the same time.**

Exhausting Other Means

- **Deadly force is a last resort**

Duty to Intervene

- **SMPD Policy - 6.1 Response to Resistance and Aggression
IX. Requirement to Stop and Report Excessive Use of Force**
- **Recent policy change**
- **Expectation has always existed, but was not codified until recent policy update**

Shooting at Moving Vehicles

- **SMPD Policy - 6.1 Response to Resistance and Aggression**
 - IV. Procedures**
 - C. Deadly Force Restrictions**
- **2018 SXSW festival in Austin**

Use of Force Continuum

- **Continuum is not current best practices and not in line with most recent relevant case law (Graham v Connor)**
- **We used UoF continuum for many years before adapting to the more current minimum reasonable and necessary standard**

Comprehensive Use of Force Reporting

- **SMPD Policy - 6.1 Response to Resistance and Aggression
VII. Reporting Use Of Force**
- **laPro and early warning capacity**
- **Current process has been in place for nearly 20 years**
- **Command review of certain events**
- **Annual reports compiled and submitted to Council**
- **Reports already required to Texas Attorney General's Office**
- **Voluntary reporting to FBI**

Other Considerations – No Knock

- SMPD Policy – 7.5 Search Warrant
 - VI. Executing a Search Warrant
 - D. Gaining Entrance to Premises
 - 5. No-Knock or Exigent Entry
- Recent policy change to match practice of avoiding no knock

8 Can't Wait Scorecard

- ✓ **Ban Choke Holds and Strangle Holds**
- ✓ **Require de-escalation training**
- ✓ **Require warning before shooting**
- ✓ **Exhaust all other means before shooting**
- ✓ **Establish a duty to intervene in instances of excessive force**
- ✓ **Ban practice of shooting at moving vehicles**
- Require a use of force continuum, BUT we have something better**
- ✓ **Require comprehensive use of force reporting**

Retention of quality staff

- **Retirements**

- We have seen an increase over the last few years, people stay

- **Complaints or commendations**

- Keep the quality
 - Online through website, forms in person, call
 - Tracking
 - Strong oversight
- Substantiated misconduct
 - Nature, complexity of circumstance, history, aggravating or mitigating circumstances

Recommendation – Public Review of Use of Force Policy

- **President Obama’s Town Hall on June 3 – called upon mayors to review use of force policies with their communities to look for opportunities for improvement**
- **Create an ad-hoc committee comprised of community members nominated by Council focused on the review use of force policies**
 - Define the charge – review policy, make recommendations to Chief’s Advisory Panel via written report and open presentation
 - Provide the committee an initial “class” on the TPCA best practices program, key case law issues that drive building a Use of Force policy
 - Establish deadline and meeting dates

Policy Review Continued

- **After receiving recommendations from Advisory Panel, Chief will prepare report and presentation to City Council**
- **Council provides direction to Chief**

- **Policies can be found on SMPD Website – About Us**
- **<http://sanmarcostx.gov/3155/SMPD-Policy>**

Discussion



Memorandum

TO: Honorable Mayor and City Council

VIA: Bert Lumbreras, City Manager

FROM: Bob Klett, Interim Chief of Police

DATE: June 26, 2020

SUBJECT: Discussion on San Marcos Police Use of Force Policies

I am very proud of the character and culture of our agency. It does not come easy, but through hard work and paying attention to the community. It requires being very intentional in our hiring practices and offering employment only to those who are a best fit for our diverse community and our culture of character. We typically hire only one applicant out of around ten because we strive for quality; the quality demanded by our profession to serve others and by our community.

We recruit locally and outreach via various methods to other areas where we can draw in diverse applicants to serve in a well-regarded agency. We have incentives for those who are already certified, but look for only quality applicants whether already certified peace officers or not. Applicants must comply with all applicable Civil Service requirements and regulations. Additionally, The Texas Commission on Law Enforcement (TCOLE) has clear rules on eligibility and licensing for individuals to be Peace Officers. There is a written test consisting of multiple-choice questions covering subjects such as cognitive skill, reading comprehension, and memory skills. The department has adopted one of the methods used by the Texas Department of Public Safety (DPS) to assess officer and candidate fitness and readiness. Candidates take the same fitness test that officers take every year.

The hiring process uses an extensive police officer Personal History Statement which is the key document for our background investigation of police applicants. Family members, references, acquaintances, past employers and co-workers are interviewed, and a review is conducted of military and school records, driving records, credit history, and any other area the investigator deems appropriate. These things are done in person as much as possible because the results are much stronger. We invest the time up front in the background process to remove candidates that do not meet our high standards. If the applicant was previously certified in a Texas agency, the law requires the previous department shows our investigators all documents and files related to the employee to

make sure we would not be taking on someone else's problem employee. For officers that were previously employed out of state, we travel to those departments and actively uncover issues if any. All applicants progressing in the background process are also subjected to a polygraph exam.

Applicants who pass the background process are then brought before an Oral Interview Board of experienced police staff. The interview panel is composed of three officers from various assignments around the department including the Assistant Chief of Operations. The candidate will respond verbally to questions asked by the members of the panel which are designed to allow the panel to determine the communication skills, qualifications and character of the candidate.

A conditional offer of employment will be made to applicants who pass the oral interview and a final interview with the Chief of Police. A psychological examination is a TCOLE requirement. We use an independent psychologist for this examination. A pre-employment physical and drug screen is also required for police officers. The examination will be performed by a city selected licensed physician. Random drug screens are also held for staff.

Training is conducted, if needed, through various regional law enforcement academies who keep us informed of student's progress. All newly hired officers will go through local training as well. They attend a in house mini academy where we teach them OUR standards and expectation above what the TCOLE requirements demand. All officers undergo several months of field training rotating through different specifically trained officers before they are released to solo patrol. Officers who are released to solo patrol are on probation for one year from their release date.

Once an employee is hired, they have a comprehensive set of policies which guide them in their duties and keeps our culture strong. We have been working to adopt the Texas Police Chiefs Association (TPCA) best practice polices and adapt them for the unique needs of our San Marcos citizens. We started this process several years ago, focusing on those most critical policies first. Once we finish our policy transition, we will work to become a recognized agency, a designation awarded by the Association.

The Law Enforcement Recognition Program is a voluntary process where police agencies in Texas prove their compliance with 166 Texas Law Enforcement Best Practices. These Best Practices were carefully developed by Texas Law Enforcement professionals to assist agencies in the efficient and effective delivery of service, the reduction of risk, and the protection of individual rights.

Being "Recognized" means that the agency has proven that it meets or exceeds all of the identified Best Practices for Texas Law Enforcement. These Best Practices cover aspects of law enforcement operations such as use of force, protection of citizen rights, pursuits, property and evidence management, as well as patrol and investigative operations. Noted police researcher G. Patrick Gallagher identified 12 critical issues (other than vehicle accidents and employee injuries) that get police departments in trouble. These critical areas are:

- Use of Force
- Emergency Vehicle Operation and Pursuits

- Search, Seizure, and Arrest
- Care, Custody and Restraint of Prisoners
- Domestic Violence and agency employee domestic misconduct
- Off-Duty Conduct
- Selection and Hiring
- Sexual Harassment
- Complaint and Internal Affairs Management
- Narcotics, SWAT, and High-Risk Warrant Service
- Dealing with the Mentally Ill and Developmentally Disabled
- Property and Evidence Management

Recognition Program Standards address these areas in an attempt to minimize risk and increase officer safety and training. While being “Recognized” does not guarantee an agency will not make a mistake, it does ensure that the agency has studied these critical issues, has developed policy and procedures to address them and has systems in place to identify and correct problems.

Through the consent of those governed, Police Officers exercise the government’s granted powers and responsibilities – the power to stop and question a citizen, the power to arrest a citizen, to seize his person and property, and the power to use force in that process. Officers often operate alone without direct supervision. Police agencies direct and control officer’s activity through supervision, training and written policies and procedures. Since supervisors cannot always be present, the training and the policies and procedures of an agency are critical to ensuring proper performance. Appropriate equipment is also necessary. The Recognition Program ensures an agency has addressed the most critical law enforcement issues in both policy as well as actual operation to ensure that the powers and responsibilities that we carry out are done in a just and equitable manner.

The Recognition Program assures both City Management and the citizens of a city that their Police Department is operating in a manner that reflects the current Best Practices of Law Enforcement. It can provide citizens with reassurance and improve community relations and cooperation – and also leads to improved performance within the department.

Every Police Chief and every police agency has the opportunity to learn from their mistakes. Many develop systems and safeguards to keep from making the same mistakes again. The Texas Best Practices are the combined knowledge of all Texas Chiefs and their experiences in learning from mistakes and implementing change based on them. These best practices also ensure that agencies are following all legislative mandates and current judicial requirements.

One of the biggest problems for police agencies is keeping their policy manual up to date. The TPCA provides a Complete Sample Policy Manual that meets all 168 Best Practices. It is the combined work of many police chiefs in Texas and has been used by over 100 of Recognized Agencies. All parts of the Manual are editable and agencies can use all or only part of the manual that is needed.

For transparency, I recently had all of our policies placed on our departmental webpage so that anyone can see them. We have also been working to develop brochures and updating our website with

concerns brought up on a national level to help our San Marcos citizens have a better understanding of THEIR police department. We continue to enjoy great community support and take our position of service to the community very seriously.

The *8 Can't Wait Initiative* that has been presented has prompted many questions coming in to our agency and Council. With this memo, my desire is to let you know where the San Marcos Police Department stands on these issues. It has been a point of pleasure being able to tell our citizens, and those who have emailed from around the world where we stand. These eight initiatives are:

- Ban Choke Holds and Strangle Holds
- Require de-escalation training
- Require warning before shooting
- Exhaust all other means before shooting
- Establish a duty to intervene in instances of excessive force
- Ban practice of shooting at moving vehicles
- Require a use of force continuum
- Require comprehensive use of force reporting

Choke and Strangle Holds

SMPD Policy Reference: 6.1 Response to Resistance and Aggression - V. Limitations on Force

This is a recent policy change due to a change in the standards at the TPCA.

The department does not allow any of its employees to use choke holds or carotid artery neck restraints; the only exception shall be when the officer involved is justified in the use of deadly force. Any employee using such force will cease immediately upon control of the subject (normally when the person has been handcuffed or no longer actively resisting) and begin the application of an appropriate medical response if needed.

SMPD officers have been trained for years on the dangers of positional asphyxia, and holds that are designed to restrict breathing are strictly prohibited. Additionally, we have distributed reminder emails from the training cadre that respiratory restraints and knees being kept on necks is not allowed. In my personal experience of 30 plus years of law enforcement, I have never seen or taught the tactic of a knee being applied to the neck.

Previously, the San Marcos Police Department defensive tactics training program did not allow for the use of any type of choke hold or restraint designed or intended to restrict a person's ability to breath. All members of the department have, however, received training on how to correctly apply a carotid restraint. Neck restraints, as they are called, are seldom used in San Marcos, but are a valuable tool in keeping us from having to escalate force. The restraints used come from tactical, legal, and medically validated studies. SMPD officers are not allowed to "hog tie" arrested persons. Several years ago, the department invested several thousand dollars into purchasing Wrap restraints. These full-body restraints are designed and used to humanely restrain individuals who are being violent and aggressive

during the arrest process. They allow for a violently resisting individual to be transported while seated in an upright position and with the seatbelt applied. The wrap restraints have been very valuable here and around the country.

De-escalation Training

The state mandates de-escalation training as various cycles. We talk about it in all of our use of force training and at various other times throughout the year to stay on message about its importance.

Members of the San Marcos Police Department are consistently trained in de-escalation principles throughout their career and have been for years. Additionally, de-escalation training is part of the state mandated training for all new police officers. Our training focuses on active listening first, something we first developed here, and then other de-escalation principles so that lawful force is hopefully not needed. If force is used, de-escalation and the provision of care and recovery support for the person is required as soon as practicable. These trainings are supplied both in house and in online training that all sworn staff attended in the last year. Finally, built in to the culture of the San Marcos Police Department, is the undisputed value of treating our customers with dignity.

The legitimacy of the work of police is very important, it is a stewardship of authority given by those we serve. We earn that through the way we interact with the public and by treating people with dignity and respect. This has been a part of our culture for many years, and we have received positive feedback in many ways from our community.

Require warning before shooting

SMPD Policy Reference: 6.1 Response to Resistance and Aggression IV. Procedures B. Use of Deadly Force

Where practicable, prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

SMPD officers are prohibited from using excessive force at all times. Requiring a verbal warning in all instances before force is applied is not a reasonable expectation. Deadly force encounters often involve split-second decisions in circumstances that are tense, uncertain, and rapidly evolving. In these situations, human brains cannot smoothly send signals to speak and act at the same time and could cause a deadly delay for the officer or innocent victims. Situations often involve very rapidly escalating violence on the part of offenders who choose to attack officers. The cases of Officers Ken Copeland and Justin Putnam are both specific, local, examples. In both of these instances, officers had no time to issue any type of warning before attempting to draw their weapons. Doing so would have slowed down their response to violence even further. Even with no verbal warnings given, they still could not react to the violence fast enough to save their own lives. That being said, SMPD policy does require officers to give clear verbal direction and explanation to detainees and arrestees in all instances if feasible.

Exhaust all other means before shooting

The reasonable and necessary standard established by the SMPD Response to Resistance Policy requires officers to articulate any level of force they use, which is why it is a higher standard than a force continuum. Deadly force, however it is used, requires any lesser options to be considered or used if reasonable, under the myriad of circumstances and nuances an officer is facing, therefore making it a last resort option. All SMPD officers receive training on rendering aid. In the event of injury from the use of force by police or others, SMPD policy requires the application of life saving measures to those who have been injured.

Duty to intervene

SMPD policy reference: 6.1 Response to Resistance and Aggression IX. Requirement to Stop and Report Excessive Use of Force

Any employee who observes another employee use excessive force against any person shall immediately intervene. Intervention includes any action that is reasonable, given the circumstances intended to stop the excessive force. The observing employee will notify a supervisor immediately and shall submit a memorandum within twenty-four hours.

The San Marcos Police Department general orders require immediate reporting of these types of incidents. This was codified in a recent policy update. The policy previously was specific to reporting another employee's use of excessive force. Not only does the policy require this, we had an example of it working effectively several years ago in the case of Corporal James Palermo when he was terminated and charged criminally after a fellow officer viewed him using unlawful and excessive force while reviewing dash camera video.

Additionally, our officers have created an accountability standard that gives permission to "relieve" a fellow officer who may be losing composure to step away while another officer steps in and takes over, allowing a cool down period. This is the benefit of working in a department where officers are not a number, where relationships are built, and trust is maintained within and without the organization.

Shooting at moving vehicles

SMPD policy reference: 6.1 Response to Resistance and Aggression IV. Procedures C. Deadly Force Restrictions

Officers shall not fire at a moving vehicle unless the continued operation of the vehicle presents an imminent danger of death or serious bodily injury to any person. Officers shall not voluntarily or recklessly place themselves in front of an oncoming vehicle where the need for deadly force is a likely outcome. Officers threatened by an oncoming vehicle shall make a reasonable effort to attempt to move out of its path, if possible, before resorting to discharging a firearm at it or any of its occupants.

Shooting at a moving vehicle is extremely rare, but incidents like the 2018 SXSW festival in Austin where a driver plowed through a crowd reveal shooting at a moving vehicle may be necessary for extreme

events to protect public safety. Unfortunately, incidents like these have been a little more common in the world recently.

Use of force continuum

The use of force continuum is a dated concept that is not recognized as current best practices and is not in line with the most recent relevant case law regarding the use of force by police (*Graham v Connor*). We used the use of force continuum for many years before adapting to the more current minimum reasonable and necessary standard. The SMPD follows one of the most restrictive use of force model protocols: Officers must only use the force that is reasonable and necessary to effectively bring an incident under control while effectively protecting the lives of the officer and others.

We moved to this standard several years ago, which is actually more restrictive in that an officer must articulate why they applied the force they did instead of just pointing to a continuum and using force just because it was allowed. This department values the protection and sanctity of human life. It is, therefore, the policy of this department that officers use only the force that is reasonable and necessary to effectively bring an incident under control while protecting the lives of the officer and others. The use of force must be objectively reasonable. Officers must use only the force that a reasonably prudent officer would use under the same or similar circumstances.

Comprehensive use of force reporting

SMPD Policy reference: 6.1 Response to Resistance and Aggression VII. Reporting Use of Force

Officers shall document any application of force, other than the routine use of handcuffs or use of a firm grip to direct the movements of a subject, except for those arising in training, departmental demonstrations, or off-duty recreational activities.

In all cases using force, including the Taser, or reports of an assault on an officer, or resisting arrest, the on-duty supervisor shall conduct a review of available body or vehicle camera footage to determine if officers followed protocol and used reasonably necessary force.

All use of force is also reviewed a second time by a member of administration.

The department conducts early intervention through the process of quarterly and random reviews of body worn and in-car camera footage by first line supervisory personnel. This current process has been in place for nearly 20 years. We use software called IAPro that was designed to help cities like New York keep track and provide early intervention warnings of their officers who can easily hide behind their vast numbers and supervisor span of control. Our smaller department affords us the opportunity to be more in tune with each and every one of our officers, yet we find this software to be a valuable tool in helping us to remain aware.

Annual reports are compiled and submitted to Council and, this year, we have plans to post them on our website as well for transparency. Our report this year has been well delayed due to a variety of factors. My goal will be to have this complete within the next few weeks.

Other Considerations – No-Knock

SMPD Policy reference: SMPD Policy – 7.5 Search Warrant VI. Executing a Search Warrant D. Gaining Entrance to Premises 5. No-Knock or Exigent Entry

Our practice over the last several years has moved away from no-knock warrants or entry and was recently codified in policy after a review.

In some circumstances a police officer may enter the premises to be searched without announcing his or her presence and purpose before entering. The judicial authority issuing the warrant may add a no-knock entry provision to the warrant. If not, the decision to make a no-knock entry may be made by the on-scene supervisor based on facts that would lead them to believe that an announcement would result in bodily harm either to the officer or to someone within the premises.

If circumstances require a no-knock or exigent entry, the first officer to cross the threshold into the premises shall announce that law-enforcement officers are executing a warrant. To ensure their own safety officers shall command the occupants to take appropriate action, such as "police, search warrant, get down."

No-knock warrants shall not be used solely for evidence preservation.

Exigent entries may be used to preserve life.

A common use of no-knock entries in the past may have involved the need to prevent the escape of a person or to preserve evidence from being destroyed. The use of no-knock for these types of incidents has been deemed too risky and other methods have been developed and used locally except for some very extreme and rare circumstances. The need to make a no knock entry may still be the best option in something such as a hostage rescue where surprise may be the best option to protect life.

Recommendation – public review of use of force policy

We currently have a Chief's Advisory Panel that provides flow of information to the department and to the public on internal and external issues. The panel also receives summary review on complaints and provides feedback on certain policies being considered by the police department. The participation of these volunteers is very much appreciated and welcomed. Although we have not met in some time due to COVID, we will be meeting again in early July to open discussion back up and to hear their thoughts on how we can best implement the points in the Cite and Release Ordinance as we plan for future meetings. After checking with several comparable agencies, it appears we are the ONLY agency that has a standing Chief's Advisory Panel. I am proud that this is something we have already been doing for some time now. The current standing members are:

- Eric Charleswell (employee)
- Gary Pack (resident)
- Nathaniel Kindred (resident)
- Olivia Juarez Reid (resident)

- Jesse Saavedra (employee)
- Jessica Todd (employee)
- Karen Zavala (employee)
- Frank Arredondo Sr (resident - new)
- Bucky Couch (resident - new)
- Nico Costilla (resident - new)
- James Bryant, Jr (resident - new)
- Antonio Palacios (resident - stepping down)
- Marianne Moore (resident – stepping down)

As stated earlier our policies are now online for anyone to review. President Obama’s Town Hall on June 3 called upon mayors to review use of force policies with their communities to look for opportunities for improvement. Our suggestion would be to create an ad-hoc committee comprised of community members nominated by Council. The panel’s charge should be to review policy and make recommendations to the Chief’s Advisory Panel via written report and open presentation.

The department would provide the committee an initial “class” on the TPCA best practices program, and key case law issues that drive building a use of force or response to resistance and aggression policy. The committee would establish a deadline and meeting dates before beginning their work.

After receiving recommendations from the Advisory Panel, I will be prepared to make a report and presentation to City Council.

I truly appreciate your support of our officers and recognizing the work they do in service to our community; in how we strive to be different. As humans serving other humans, we do make mistakes, but we look for ways to improve what we do in the form of practices, policy, or training. We look for positive and negative feedback to be responsive. We police ourselves through routine review of officer’s video, direct supervision, and reviewing complaints (or commendations) that come in through a variety of ways. Our citizens and visitors can fill out forms on our website, call and ask for a supervisor, fill out a paper form found in our lobby as some of the examples of ways we receive feedback.

Complaints and commendations are documented and tracked, to include disciplinary actions, in the same software that holds the use of force data so that we have a better view into any issues that need to be addressed. Substantiated misconduct is sanctioned on a progressive scale that considers the nature of the misconduct; the complexity of the circumstances or issues involved in the misconduct; the history of similar substantiated complaints against the affected employee; and any aggravating or mitigating circumstances. We find the best way to avoid disciplinary issues is to hire only the best possible people for our community, train and equip them well and provide appropriate guidance as they carry out their duties.

I wanted to share our values statement that was built collaboratively by all members of the department:

The San Marcos Police Department is committed to the concept of shared responsibility, in partnership with its community, to identify and solve community problems, to maintain the

public safety, and to promote a sense of confidence and security among its citizens, while remaining astute to the principles and craft of traditional policing.

The employees of the San Marcos Police Department take great pride in professionalism. We pursue a working environment in which honesty, integrity, open communications and compassion are woven into our character and culture.

The mission of the San Marcos Police Department is dynamic and ever changing. In an effort to best serve our community, to provide a safe living environment and high quality of life for our citizens, we always strive to utilize our limited resources in the most efficient and cost-effective manner.

Our community and our mission have never been more complex than they are today. The pace of change requires a continuing commitment to the training, education and professional development of our employees. We recognize that through a commitment to the highest professional standards, both in the selection and development of our personnel, that we can at least meet with the pace of change, instill pride in our community, and accomplish our dutiful obligations in a safe and professional manner. With diligence and devotion, we are committed to the attainment of excellence, an ongoing profession unto itself.

At no time in our history has the availability of technological tools played a more significant role in our ability to enhance our services to the public. We continue to evaluate and consider new applications for innovation in our duties, responsibilities and conventional methodology. We procure and assimilate cost effective advancements in technology to augment our service delivery and communication within our community.

Effective police service is always considerate of both the human and humane realities of our world. The San Marcos Police Department instills in its employees and encourages the use of professional and responsible discretion, guided by effective policy and practice. Individual initiative, enthusiasm and the value measured use of police discretion is rewarded.

In closing, I am proud to lead this organization and its commitment to continuously and intentionally evolve into a department that will become a standard for the nation to emulate.

	SAN MARCOS POLICE DEPARTMENT	
	Policy 6.1 Response to Resistance and Aggression	
	Effective Date: May 1, 2019	Replaces: GO 200, 213
	Update Date: June 22, 2020	
	Approved: _____ <i>Bob Klot</i> _____ Chief of Police	
Reference: TBP 2.25, 3.01, 3.02, 3.04, 6.01, 6.02, 6.03, 6.06, 6.07, 6.08, 6.09, 6.10. 6.11		

I. POLICY

This department values the protection and sanctity of human life. It is, therefore, the policy of this department that officers use only the force that is reasonably necessary to effectively bring an incident under control while protecting the lives of the officer and others. Furthermore, this policy stands as a guideline and expectation that all employees of this agency are accountable for monitoring themselves and their peers.

The use of force must be objectively reasonable. Officers must use only the force that a reasonably prudent officer would use under the same or similar circumstances.

The officer’s actions shall be reviewed based upon the information known to the officer at the time the force was used. Information discovered after the fact shall not be considered when assessing the reasonableness of the use of force.

Officers are accountable for their actions and are prohibited from using any force as a means of punishment or in the process of an interrogation.

The department advocates and promotes a culture of mutual accountability.

II. PURPOSE

The purpose of this policy is to provide law enforcement officers of this agency with guidelines for the use of deadly and non-deadly force. Nothing in this policy is intended to create any benefit for third parties, nor does this policy set forth a higher standard of care with respect to third party claims.

III. DEFINITIONS

- A. **Deadly Force:** Any use of force that creates a substantial risk of causing death or serious bodily injury.
- B. **Non-Deadly Force:** Any use of force other than that which is considered deadly force. Non-deadly force includes, but is not limited to handcuffing and any physical force, effort or technique used against another.

- C. Serious Bodily Injury: Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- D. Objectively Reasonable:
 - 1. This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to themselves and the community.
 - 2. In evaluating the reasonable application of force, officers may consider their own age, size, strength, skill level with department weapons, state of health, and the number of officers opposing the number of suspects.

IV. PROCEDURES

- A. Use of Non-Deadly Force
 - 1. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable and necessary to bring an incident under control. (TBP: 6.01)
 - 2. Officers are authorized to use reasonable non-deadly force techniques when one or more of the following apply:
 - a. To protect the officer or others from physical harm.
 - b. To restrain or arrest an individual who is resisting a lawful arrest or detention.
 - c. To bring an unlawful situation safely and effectively under control.
- B. Use of Deadly Force

Officers are authorized to use deadly force when one or more of the following apply:

 - 1. To protect the officer or others from what is reasonably believed by the officer at that time to be an immediate threat of death or serious bodily harm. (TBP: 6.02)
 - 2. To prevent the escape of a fleeing violent felon whom the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others.
 - 3. Where practicable, prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.
- C. Deadly Force Restrictions
 - 1. Warning shots shall not be fired. (TBP: 6.09)
 - 2. Officers shall avoid firing their weapons when it appears likely that an innocent person may be injured, except during dire and extreme circumstances which by doing so will save other lives.
 - 3. Officers shall not fire at a moving vehicle unless the continued operation of the vehicle presents an imminent danger of death or serious bodily injury to any person. Officers shall not voluntarily or recklessly place themselves in front of an oncoming vehicle where the need for deadly force is a likely outcome.

4. Officers threatened by an oncoming vehicle shall make a reasonable effort to attempt to move out of its path, if possible, before resorting to discharging a firearm at it or any of its occupants.
5. Officers may discharge a firearm to kill any animal which presents an imminent danger of death or serious bodily injury to any person, or which is obviously suffering from a serious injury or illness, after first attempting, when feasible, to locate and receive permission from the animal's owner.

V. LIMITATIONS ON FORCE

Employees shall carry and use only those intermediate weapons on which they have been trained. This does not prevent an officer from using a weapon of opportunity if the situation dictates usage for prevention of bodily injury to the officer or another.

The department does not allow any of its employees to use choke holds or carotid artery neck restraints; the only exception shall be when the officer involved is justified in the use of deadly force. Any employee using such force will cease immediately upon control of the subject (normally when the person has been handcuffed or no longer actively resisting) and begin the application of an appropriate medical response if needed. (TBP 6.11)

VI. TRAINING

- A. Officers shall receive training in the use of their firearms and issued less-lethal weapons authorized by the department, hands-on arrest and defensive tactics, as well as the "Use of Force" policy prior to performing any law enforcement duties.
- B. Officers shall be trained and qualified with their firearms at least annually. (TBP: 3.01, 3.02)
- C. Officers shall receive training in the department's "Use of Force" policy at least annually. (TBP: 3.02)
- D. Officers shall receive hands-on arrest and defensive-tactics training at least every two years. (TBP: 3.06)
- E. Officers shall receive training in all less-lethal weapons issued to them by the department and demonstrate proficiency with those weapons at least every two years. (TBP: 3.04)
- F. Use-of-force training shall, at a minimum, comply with the standards established by Texas Commission on Law Enforcement (TCOLE).

VII. REPORTING USE OF FORCE (TBP: 6.03, 6.06)

- A. Officers shall document any application of force, other than the routine use of handcuffs or use of a firm grip to direct the movements of a subject, except for those arising in training, departmental demonstrations, or off-duty recreational activities. Reports include any incident report and the electronic use-of-force and/or discharge firearm report.
- B. Excluding the exceptions in paragraph A above, if officers have employed any use of physical force or used any impact, electrical, or chemical weapons, or pointed or discharged

any firearm, they shall first provide for appropriate medical aid for the subject (TBP: 6.07)

Then:

1. Photographs of the subject shall be taken as soon as possible after the use of force to document any injury or lack of injury.
 2. Submit an electronic use-of-force form prior to the end of shift describing the incident, the force used, and any medical aid rendered. The use-of-force form shall be in addition to any other required reports.
 3. Supervisors should use discretion when delaying the form. The chain-of-command understands the stress placed on an officer in a high-stress situation and its effects on the body. This includes understanding the Sympathetic Nervous System “fight or flight” response and the events that trigger it. One major concern is the Critical Incident Amnesia that results from a mass discharge of the stress hormone cortisol. Because of this reaction, an officer involved in a high stress incident shall first give a verbal report of the incident; which shall be titled preliminary report. The officer shall then be allowed up to two sleep cycles before giving a final or written report.
- C. A supervisor shall respond to the scene of a use-of-force in the following situations:
1. When a firearm is discharged other than on the firing range; excluding the permissible disposition of a wild, dangerous, or diseased animal and there are no other injuries or property damage.
 2. When the use of force by an officer results in death or serious bodily injury to any person; or
 3. When a person complains an officer has inflicted an injury that requires medical attention.
 4. When a hobble restraint or wrap restraint is applied.
- D. When the use of force results in serious bodily injury or death, the involved officer’s supervisor shall ensure that immediate notification is made to the appropriate supervising commander via the chain-of-command. The commander shall notify the division assistant chief and chief of police as soon as practical.

VIII. DEPARTMENTAL REVIEW

A. Review

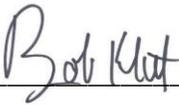
1. In all cases involving the actual use of an intermediate weapon including the Taser, or reports of assault on a police officer or resisting arrest the on-duty supervisor shall conduct a review of available recordings in conjunction with the Use of Force Report review. The purpose of this review is to determine whether the use of force was acceptable and permissible and that department procedures and policies were followed. It is unnecessary to review all available recordings connected to the incident if a more limited review is sufficient to accomplish this directive.
2. When reviewing use-of-force incidents, supervisors shall determine the following:
 - a. If departmental orders were violated.

- b. If the relevant departmental policy was clearly understandable and effective enough to cover the situation.
 - c. If departmental training was adequate.
 - d. If departmental equipment operated properly.
 3. At least annually, the chief of police shall conduct an analysis of use-of force incidents to be made available to the public and to determine if additional training, equipment, or policy modifications may be necessary. (TBP: 6.10.)
 4. The department shall comply with all state mandated reporting requirements.
- B. Internal Investigations
 1. An internal investigation may be conducted on a firearms discharge (other than during training), and any other use of deadly force by any member of the department. An internal investigation may be conducted on other use- of- force incidents if a violation of law or department policy is suspected. In addition to the internal investigation, a criminal investigation shall also be conducted of any incident involving the discharge of firearms or any other use of force incident where an officer or other person is injured or killed and in any other circumstances where a violation of law is suspected. The criminal investigation may be conducted by another law-enforcement agency with concurrent jurisdiction, and the results may be presented to the grand jury for review. The results of the investigation shall be submitted to the office of the District Attorney.
 2. Procedures for officer-involved-shooting investigations are covered in General Order 6.4 Investigation of Officer Involved Shootings.
 3. Assignment
 - a. Pending administrative review, any officer whose actions have resulted in the death or serious bodily injury of another person, either through the intentional use of force or by accident involving a use-of-force weapon or action or a vehicle accident, shall be removed from line-duty assignment. This action protects both the interests of both the officer and the community until the situation is resolved. This re-assignment is not considered punitive in nature. (TBP: 6.08)
 - b. The chief of police will make the determination when to reassign the officer.

IX. REQUIREMENT TO STOP AND REPORT EXCESSIVE USE OF FORCE

- A. Any employee who observes another employee use excessive force against any person shall immediately intervene. Intervention includes any action that is reasonable given the circumstances intended to stop the excessive force. (TBP 2.25)
- B. The observing employee will notify a supervisor immediately and shall submit a memorandum within twenty-four hours. The memorandum will include:
 1. Date, time and location of the incident.
 2. Description of the incident, the force used, and the circumstances and conduct which constituted excessive force.

- C. The memorandum is a separate document, and not as part of any arrest or incident report relating to an incident.
- D. The memorandum is to be submitted to the chief of police, via chain-of-command, the next business day, unless the alleged use of force resulted in death or serious bodily injury to any person, in which case, the chief of police shall be notified immediately.
- E. Department investigation and review of incidents involving an alleged use of excessive use of force shall be conducted pursuant to the policies and procedures in General Order 2.4 Internal Investigation Process. Command Staff shall review incidents that result in death or serious bodily injury to any person.

	SAN MARCOS POLICE DEPARTMENT	
	Policy 7.5 Search Warrants	
	Effective Date: September 6, 2019 Revised Date: June 22, 2020	Replaces: GO 208
	Approved: <div style="text-align: center;">  _____ </div>	
	Chief of Police	
Reference: TBP: 7.06		

I. POLICY

Both federal and state constitutions guarantee every person the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. United States Supreme Court decisions regarding search and seizure place the responsibility on the police to ensure that every person’s fourth amendment rights are protected.

Officers shall scrupulously observe constitutional guidelines when conducting searches, and they will always remain mindful of their lawful purpose. Unlawful searches can result in harm to members of the community, put officers at risk, and possibly damage the department’s image in the community.

Search warrants are one of the most valuable and powerful tools available to law-enforcement officers. Officers of this department shall have a thorough knowledge of the legal requirements involved in obtaining and executing search warrants.

II. PURPOSE

The purpose of this policy is to establish guidelines and procedures that officers must follow when conducting searches and seizures.

III. DEFINITIONS

- A. Search Warrant: A written order, issued by a magistrate and directed to a peace officer commanding him/her to search for a particular property or thing and to seize the same and bring it before such magistrate, or commanding him/her to search for and photograph a child and deliver to the magistrate any of the film exposed pursuant to the order.
- B. Search Site: The premises to be searched, as explicitly stated in the search warrant.
- C. Lead Detective: The officer primarily responsible for the investigation who will prepare, plan, and implement the search warrant.
- D. SWAT Commander: The officer responsible for planning and supervising tactical operations to include hostage rescue and other tasks requiring special weapons and tactically trained officers.

- E. Protective Sweep: A quick and limited search of premises incident to an arrest or service of a warrant performed in order to locate other persons inside who might pose a risk to the officers. Officers must be able to articulate a reasonable basis their safety concerns.
- F. Curtilage: Curtilage usually refers to the yard, garden, or any piece of ground that adjoins a private residence. While the term has no absolute definition that applies under all circumstances, the curtilage of a private residence, for instance, is determined by whether the area is enclosed, the nature and use of the area, the proximity of the area to the home, and any measures taken by the owner to protect the area from observation.

IV. PROCEDURES - GENERAL

A. State Law

1. Chapter 18 of the Texas Code of Criminal Procedure (CCP) controls the use of search warrants in Texas. It states that a judge or magistrate may issue a search warrant if the following circumstances exist:
 - a. There is probable cause to do so, and
 - b. There is a complaint on oath supported by an affidavit.
2. Search warrants may be issued for the search of specified places, things or persons, and seizure of the following things as specified in the warrant:
 - a. Weapons or other objects used in the commission of a crime;
 - b. Articles or things the sale or possession of which is unlawful;
 - c. Stolen property or the fruits of any crime;
 - d. Any object or thing, or person, including documents, books, records, paper, electronic data or body fluids constituting evidence of a crime;
 - e. Criminal instruments;
 - f. Arms and munitions kept or prepared for insurrection or riot;
 - g. Gambling devices or equipment;
 - h. Obscene materials kept for commercial distribution;
 - i. Illegal drugs, controlled substances, precursors or drug paraphernalia;
 - j. Persons;
 - k. Contraband subject to civil forfeiture under CCP Ch. 59; or
 - l. A cellular telephone or wireless communications device seized incident to a person's arrest.
3. A search warrant may also be issued to search for and photograph a child who is the victim of certain offenses as specified in CCP Article 18.021.

B. Federal Law

1. The issue of federal warrants is determined under Title 18, Chapter 205 of the United States Code and Rule 41 of the Federal Rules of Criminal Procedure.
2. Local officers are encouraged to consult with a federal law enforcement officer or an Assistant US Attorney prior to obtaining a federal warrant.

V. OBTAINING A SEARCH WARRANT

- A. Prior to obtaining a search warrant, officers should consult a departmental supervisor for review of the probable cause and for approval to seek a search warrant. This review may be conducted by telephone if necessary.
- B. Affidavits
 - 1. To obtain a search warrant, an officer shall prepare an affidavit that carefully documents the specific facts that constitute probable cause to believe that specific evidence, contraband, fruits of a crime or persons may be found at a particular place.
 - 2. The accuracy of the affidavit is vital to the validity of the search warrant. CCP 18.01 requires officers to swear to the facts of the affidavit before a judge or magistrate.
 - 3. When determining whether or not to issue a warrant, the court considers only those facts presented in the affidavit. Officers should remain aware that conclusions and suspicions are not facts.
 - 4. Apart from the officer's personal knowledge or observations, facts may derive from the knowledge or observations of other law enforcement officers, a reliable informant or a credible witness.
 - 5. The affidavit shall include the following elements:
 - a. Description of the place to be searched;
 - b. Description of the item(s) to be seized;
 - c. Facts and circumstances that establish a probability that a search of the place described will yield the thing and/or person described.
 - d. If probable cause also exists that a person committed an offense, combination search and arrest warrants are permitted. The affidavit must allege the commission of a particular offense, list the elements of the offense and the Affiant's probable cause, backed up by articulable facts, that the person(s) committed that offense.
 - 6. If time and opportunity permit, the affidavit and warrant may be reviewed by the district attorney prior to presenting it to a magistrate.
- C. Language of the Warrant
 - 1. A warrant shall run in the name of "The State of Texas";
 - 2. A warrant shall identify, as near as may be, that which is to be seized and name or describe, as near as may be, the person, place or thing to be searched;
 - 3. A warrant shall command any peace officer of the proper county to search forthwith the person, place or thing named;
 - 4. A warrant shall be dated and signed by the magistrate and that magistrate's name shall appear in clearly legible handwriting or in typewritten form with the magistrate's signature.

VI. EXECUTING A SEARCH WARRANT

- A. The approving supervisor will be in charge of the warrant execution. While the lead detective or officer may develop the case information, construct the affidavit, obtain the

warrant, and seek assistance from SWAT if needed, the approving supervisor is responsible for the proper and safe execution of the warrant, including compliance with this policy.

B. When a Search Warrant Must be Executed

1. An officer is required to execute a warrant within the limitations of time imposed by the magistrate or by statute. If it has not been executed during that time, the officer shall void the warrant and return it to the magistrate who issued it.
2. An officer may execute a search warrant anytime during the day or at night based on the following considerations:
 - a. The execution should occur when the property to be seized is believed to be present;
 - b. The execution should occur when the least resistance is expected, or when resistance can best be controlled;
 - c. Other such considerations of safety, success, and convenience as may be applicable; and
 - d. There are no time limits on the continuous search of a location once actual entry has been made.

C. Pre-warrant Briefing:

1. Prior to the execution of a search warrant, the lead officer will identify any high risk or threats to officers and will advise the supervisor of the existence of any potential threat factors. If necessary, the SWAT Commander or his designee will be consulted.
2. Prior to the execution of a search warrant, a meeting will be held of all participating officers where duties and responsibilities will be assigned. Personnel who are not present at this briefing will not actively assist in the actual entry and securing of the scene, though they may be called upon afterwards to assist in security, prisoner control or processing the scene.
3. A diagram of the location will be made during the briefing showing a layout of the premises and officers will be assigned to their positions for the entry to the location.
4. Officers who are serving the warrant will be made aware of any potential threats.
5. A sufficient number of officers will be assigned to execute the search warrant safely and to conduct a thorough search.
6. The supervisor will notify the police communications/dispatch of the location and approximate time of execution of the warrant.
7. Departmental approved raid jackets or other attire properly identifying the officer(s) as law enforcement officers will be worn by each plainclothes officer involved in the execution of the search warrant.
8. Body armor will be worn by each officer involved in the execution of the search warrant.
9. The requirements listed under this section do not apply to the execution of evidentiary search warrants for items already in police custody such as containers, vehicles, computers and cell phones.

D. Gaining Entrance to Premises

1. Prior to execution of the warrant, the lead detective shall attempt to determine if any circumstances have changed that make executing the search warrant undesirable at that time. Where possible, pre-search surveillance shall be conducted up to the point at which the warrant is executed.
 2. The lead detective shall make a final assessment of the accuracy of the warrant in relationship to the location to be searched.
 3. In most cases the lead officer shall do all of the following before entering the premises to be searched:
 - a. Officers must announce their presence as a law-enforcement officer.
 - b. Officers must announce that their purpose is to execute a search warrant.
 - c. Officers must wait a reasonable time either to be admitted or refused admission to the premises.
 4. When Entrance is Refused
Officers who are refused entrance after a reasonable time may force their way into the premises using only that force which is applicable to the circumstances. "Reasonable time," in this context, depends on the circumstances. A refusal may be expressed or implied, including:
 - a. No one has admitted the officer within a time that a reasonable person would expect someone to let the officer in if he or she is going to be admitted at all.
 - b. The officer waiting to be admitted sees or hears suspicious circumstances, such as flushing toilets or footsteps running away from the door, which indicate that someone might be concealing or destroying evidence or trying to escape.
 5. No-Knock or Exigent Entry
 - a. In some circumstances a police officer may enter the premises to be searched without announcing his or her presence and purpose before entering. The judicial authority issuing the warrant may add a no-knock entry provision to the warrant. If not, the decision to make a no-knock entry may be made by the on-scene supervisor based on facts that would lead them to believe that an announcement would result in bodily harm either to the officer or to someone within the premises.
 - b. If circumstances require a no-knock or exigent entry, the first officer to cross the threshold into the premises shall announce that law-enforcement officers are executing a warrant. To ensure their own safety officers shall command the occupants to take appropriate action, such as "police, search warrant, get down."
 - c. No-knock warrants shall not be used solely for evidence preservation.
 - d. Exigent entries may be used to preserve life.
- E. Conduct of the Search

1. The supervisory officer shall ensure that a protective sweep of the site is performed immediately.
2. When the scene is secure, the occupant shall be given a copy of the search warrant but not the affidavit.
3. After the site has been secured, a photographic and/or videotape record of the premises shall be made prior to conducting the search.
4. A search warrant will be executed and the search made only at the place or places described in the warrant.
5. The search may extend to all buildings or structures within the curtilage of the described place where the items sought may be kept.
 - a. A warrant describing the place to be searched as a limited portion of larger premises may not be extended to other, unnamed portions.
 - b. Vehicles located upon multi-unit dwelling premises, such as apartment complexes, will not be searched unless specifically named in the warrant. This does not apply to vehicles for which probable cause exists to believe that the vehicle contains contraband or evidentiary items.
 - c. The search is limited to discovering those items named in the warrant, and examining those places or things that could contain or conceal the items described in the warrant.
6. Items discovered during a lawful search, but not named in the search warrant may be seized if:
 - a. They were found in a place reasonably within the scope of the search; and
 - b. There is reason cause to believe they are stolen, or are evidence or instruments of a crime.
7. The search must cease when all the evidence being searched for is located.
8. Officers should exercise reasonable care in executing the warrant to minimize damage to property. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to guard the premises until it can be secured.
9. If damage occurs, justification for actions that caused the damage and a detailed description of the nature and extent of the damage shall be documented. Photographs of the damage should be taken where possible.
10. Currency taken as evidence shall be count verified by at least two officers and the chain of custody maintained as designated by department policy. Large amounts of currency which are impractical to accurately count at the scene may be secured and counted later at the police station or a financial institution.
11. If items are taken from the search site, an itemized receipt shall be provided to the resident/occupant, or in the absence of the same, left in a conspicuous location at the site along with a copy of the search warrant.

F. Searches of Persons Found on Premises

1. A person's presence on the premises to be searched with a warrant does not, without more evidence than the person's mere presence, give rise to probable cause to arrest or search that person beyond a frisk for officer safety if there is reason to believe that the person is armed or dangerous.
2. A warrant to search the premises for contraband does carry with it the authority to detain the occupants of the premises while a search is being conducted. If the search of the premises gives rise to probable cause to arrest the detainee, he or she may be arrested and his or her person searched incident to arrest.
3. A person on the premises may be searched if the officer has probable cause to believe that items listed in the warrant are concealed on the person.
4. Any person(s) the officers develop reasonable suspicion to believe is armed or dangerous may be frisked.
5. The officer(s) may search persons found on the premises to prevent the disposal or concealment of any instruments, articles, or things particularly described in the warrant, if there is probable cause that the person(s) may have such items upon his person. In determining whether probable cause exists, officers will consider:
 - a. The nature and physical characteristics of the item sought;
 - b. The ease with which the item may be disposed of, if so concealed;
 - c. If true, the fact that the item has not yet been located upon the premises;
and
 - d. The relationship of the person to the premises, including ownership, residence, frequenter, and to those in control of the premises.

G. High-Risk Warrant Execution

1. A high-risk warrant is any situation where it is likely that any special obstacle to the safe, effective execution of the warrant is present, the location has been fortified, or officers expect they may meet armed resistance or other deadly force. This suspicion should be corroborated by intelligence information, for example, information from the offender's criminal history, informant or witness statements, history of location, or the detective's personal knowledge.
2. High-risk search warrants may utilize SWAT (or the appropriate tactical unit within the jurisdiction) for entry and the securing of the premises.
3. The supervisor in charge of executing the warrant will notify the SWAT Commander or his designee through the proper channels of any high-risk warrant situation.
4. Upon notification by any supervisor that SWAT may be needed to execute a warrant, the SWAT commander will consult with the supervisor and lead detective and proceed according to the SWAT unit policies and procedures.

VII. RETURN OF THE SEARCH WARRANT

- A. An officer who has finished a search shall perform the following:
1. Make timely return of the warrant to the issuing magistrate.
 2. The return includes the following:

- a. The search warrant, noting the date of the execution on the back of the warrant or on a page attached.
- b. The affidavit.
- c. Either the inventory of articles seized or a notation that nothing was seized during the search.

B. Responsibility for Property Seized

1. Officers must provide a rigorous chain-of-custody procedure for all property seized. Documentation must appear in all narrative reports pertaining to the chain of custody of any items seized. The department evidence tag shall be used to identify all seizures.
2. Officers shall place evidence in the property room or locker reserved for the purpose prior to the end of shift.
3. Officers shall observe the property and evidence procedures as detailed in Policy 12.1 Evidence and Property.