

Volusia County Sheriff's Office

Use-of-Force Review

Final Report



POLICE EXECUTIVE
RESEARCH FORUM

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EXECUTIVE SUMMARY

In May 2017, the County of Volusia, FL commissioned the Police Executive Research Forum (PERF) to conduct an assessment of the Volusia County Sheriff's Office's (VCSO) use-of-force policies, procedures, training, and case files. The purpose of this study was not to investigate any specific incident or actions by any particular deputy, but rather to review policies, practices, and the department's "culture" regarding use-of-force incidents. PERF's review included a thorough analysis of VCSO's policies and training to determine whether they were aligned with progressive practices and national standards regarding the use of force.

This report presents PERF's findings and recommendations regarding VCSO's use-of-force policies, procedures, and training.

Summary of Findings and Recommendations

The recommendations in this report are based on findings from PERF's review, which included a review of VCSO's written use-of-force policy and other related policies, review of case files regarding deputy-involved shooting incidents, interviews with VCSO personnel, and observations made during PERF's site visits. This executive summary presents an overview of key findings and recommendations included in the report. PERF shared its findings and recommendations with VCSO, which provided feedback regarding actions they have recently implemented. Most of VCSO's feedback has been incorporated into the executive summary, with some additional VCSO comments in the body of the report.

Policies and Procedures

Finding: At the time of PERF's review, VCSO was in the process of updating its use-of-force and less-lethal weapons policies (VCSO Directive 1.1 "Use-of-Force Guidelines" and VCSO Directive 1.3 "Use of Less-Lethal Weapons and Devices"). VCSO provided these updated policies in draft form to PERF. Both draft policies emphasized many positive policing practices (e.g., a central focus on the sanctity of human life and de-escalation strategies). PERF's review found a number of areas in which VCSO's policies can be improved further:

- PERF reviewed VCSO's policy regarding shooting at vehicles. Even though VCSO has a prohibition against shooting at vehicles, which is a best practice, PERF found that the language used in policy could be strengthened.
- PERF also identified areas in which VCSO can strengthen policy language pertaining to supervisors responding to the scene of a critical incident, the Internal Affairs administrative investigation, and requirements for documenting response to resistance.
 - **VCSO action taken:** The VCSO is adding policy language to address this matter, which is currently an agency practice.

(For additional context regarding the following recommendations, see the full discussion of each recommendation in the text of this report.)

Recommendation: *VCSO should combine all directives governing use of force, including those pertaining to less-lethal weapons, into one comprehensive policy. Creating one clear policy is essential to the department's management of use-of-force issues and will make it easier for deputies to find information regarding the use of lethal and less-lethal force. VCSO should merge Directive 1.3 ("Use of Less Lethal Weapons and Devices") and Directive 1.9 ("M26/X26 Advanced Taser") into Directive 1.1 ("Use of Force Guidelines") to have one comprehensive use-of-force policy.*

VCSO action taken: The VCSO has consolidated its use of force policies into two functional Directives: 1.1 Use of Force Guidelines and 1.3 Use of Less-Lethal Weapons and Devices.

Recommendation: *VCSO should refer to less-lethal weapons in generic terms (e.g., Electronic Control Weapons, expandable baton, oleoresin capsicum spray, etc.) instead of using the brand name of each particular weapon. VCSO should avoid using brand names because these names can change, or the agency may upgrade to equipment that goes by a different brand name. Using generic terms will make it unnecessary for VCSO to update its policy should these events occur. Additionally, using generic terms will make it easier for the public to understand these references, as PERF also recommends that VCSO place its use-of-force policy online (see page 75).*

Recommendation: *VCSO should add language stating the key principles of proportionality to the "Discussion" section of its use-of-force policy. VCSO should consider the following language: "Deputies should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality depends on the nature and severity of the underlying events. For example, there are some incidents that are minor in nature, but the mere presence of law enforcement may escalate the situation. Under the concept of proportionality, deputies would recognize that even though they might be legally justified in using force as a situation escalates, given the minor nature of the underlying event, a more appropriate and proportional response would be to step back and work toward de-escalation."¹*

VCSO action taken: This language has been combined with CDM language and added to the "Discussion" section of Directive 1.1 Use of Force Guidelines.

Recommendation: *VCSO should add a statement regarding the duty to intervene. This statement should include the following language: "Deputies have a duty to intervene if*

¹ Police Executive Research Forum (2016). *Guiding Principles on Use of Force*. <http://www.policeforum.org/assets/guidingprinciples1.pdf>.

they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”

VCSO action taken: Language has been added to the “Policy” section of Directive 1.1 Use of Force Guidelines.

Recommendation: VCSO should include language regarding the use of critical thinking skills as an important tool when deputies experience situations in which there is the potential for the deputy to use force. This language should include the following: “VCSO personnel will use critical thinking to assist them in determining the appropriate action and response for resolving incidents.”² VCSO should commit to training on critical thinking skills to assist deputies when they respond to many types of complex situations, including incidents that carry the potential for the use of force.

VCSO action taken: Language has been added to the “Policy” section of Directive 1.1 Use of Force Guidelines.

Recommendation: VCSO should add a definition of “**Critical Decision-Making Model (CDM)**.” This definition should state: “The CDM is a five-step critical thinking process. The five steps are built around the core values of the department and the policing profession. The CDM guides deputies through a process of collecting information; assessing the situation, threats, and risks; considering police powers and agency policy; identify options and determining the best course of action; and acting, reviewing and reassessing the situation.”³

VCSO action taken: Language has been added to the “Policy” and “Definitions” sections of Directive 1.1 Use of Force Guidelines, to include the CDM itself.

Recommendation: VCSO should add a definition of “**Electronic Control Weapon**,” as follows: “A weapon designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and override the subject’s voluntary motor responses.”⁴

VCSO action taken: VCSO has added this definition to Directive 1.3 Use of Less-Lethal Weapons and Devices.

Recommendation: VCSO should add a definition of “**Emergency Restraint Chair**” as follows: “A mobile chair containing shoulder, wrist, lap, and ankle restraints that is used to humanely restrain individuals who demonstrate combative, self-destructive, or potentially violent behavior that creates a substantial risk of physical harm to themselves or others.”

² For more information on the CDM, see the “Rethinking Use-of-Force Policies, Practices, and Tactics” section.

³ See PERF, *Guiding Principles on Use of Force*, pp. 41, 80-85.

<http://www.policeforum.org/assets/guidingprinciples1.pdf>

⁴ Police Executive Research Forum and COPS Office (2011). *2011 Electronic Control Weapons Guidelines*, p. 8. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

VCSO action taken: VCSO has added this definition to Directive 1.3 Use of Less-Lethal Weapons and Devices.

Recommendation: VCSO should add a definition of “**Oleoresin Capsicum Spray**.” The definition should be similar to that use by the Seattle Police Department, which states: “Oleoresin Capsicum (OC) spray is an inflammatory agent that causes an intense burning sensation of the skin, eyes, and mucous membranes.”⁵

VCSO action taken: VCSO has added this definition to Directive 1.3 Use of Less-Lethal Weapons and Devices.

Recommendation: VCSO should add a definition of “**Impact Weapons**,” as follows: “Any object, including an expandable baton, or defensive weapon of opportunity (e.g., flashlight, radio, etc.) that is used to strike a subject in a manner that is reasonably likely to cause injury.”⁶

VCSO action taken: VCSO has added an appropriate definition to Directive 1.3 Use of Less-Lethal Weapons and Devices.

Recommendation: VCSO should add a definition of “**Proportionality**” to the “Definitions” section of its use-of-force policy. The definition should state: “Proportionality involves directing deputies to do the following: (1) use only the level of force necessary to mitigate a threat and safely achieve lawful objectives; (2) consider, if appropriate, alternate force options that are less likely to result in injury but will allow deputies to achieve lawful objectives; and (3) consider the appropriateness of deputies’ actions. Deputies should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Whether a use of force is proportional also depends on the nature and severity of the underlying events.”⁷

VCSO action taken: VCSO has added this definition to Directive 1.1 Use of Force Guidelines.

Recommendation: VCSO should add a definition of “**Specialty Impact Munitions**,” as follows: “A less-lethal round discharged from a dedicated shotgun that is designed to temporarily disrupt a subject’s behavior.”⁸

⁵ Seattle Police Department (2015). “Seattle Police Department Manual, 8.300 (‘Use of Force Tools’).”

<https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-tools>

⁶ Ibid, Baltimore Police Department (2016). “Policy 1111 (‘Batons/Impact Weapons’).”

<https://www.powerdms.com/public/BALTIMOREMD/documents/51034>

⁷ See PERF, *Guiding Principles on Use of Force*, pp. 38-40.

<http://www.policeforum.org/assets/guidingprinciples1.pdf>

⁸ Seattle Police Department (2015). “Seattle Police Department Manual, 8.300 (‘Use of Force Tools’).”

<https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-tools>

VCSO action taken: VCSO has added this definition to *Directive 1.3 Use of Less-Lethal Weapons and Devices*.

Recommendation: VCSO should add a definition of “**Totality of the Circumstances,**” as follows: “The totality of circumstances are the facts and information known to the deputy at the time, or reasonably perceived by the deputy, and serve as the basis for the deputy’s decision to use force.”

VCSO action taken: VCSO has added this definition to *Directive 1.1 Use of Force Guidelines*.

Recommendation: VCSO should add the following language to its use-of-force policy: “Even though deputies do not have a duty to retreat or desist from making an arrest, deputies should nonetheless assess the situation; consider the seriousness of the underlying offense, if any; consider options for de-escalation; develop back-up plans; and bring in additional resources, if necessary. In minor, low-stakes encounters, disengagement or tactical repositioning may be preferable.” This language should stress that protecting the safety of deputies and citizens is the most important factor for consideration. Additionally, VCSO should train deputies to develop back-up plans to use in the event that de-escalation or less-lethal options fail. VCSO should advise deputies that they should not automatically resort to lethal force if initial de-escalation or less-lethal options are not successful. Instead, deputies should be taught to tactically reposition and consider additional de-escalation techniques or another less-lethal option.

VCSO action taken: VCSO has added this language to *Directive 1.1 Use of Force Guidelines*.

Recommendation: VCSO should simplify and revise policy language to state: “Shooting at or from a moving vehicle is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself.”

Additionally, PERF recognizes the recent trend of using motor vehicles as a weapon of mass destruction. This has been observed both internationally and within the United States.⁹ PERF understands that this type of threat may require an extraordinary response to stop the threat and protect life. If this type of event were to occur within Volusia County, any use of force, particularly lethal force, must be evaluated based on the totality of the circumstances and the necessary, reasonable, and proportional use of force.

VCSO action taken: VCSO has incorporated this in policy and training.

⁹ For example, in July 2016, a cargo truck was rammed into a crowd in Nice, France. This attack resulted in the deaths of 86 people, and 458 others were injured. In the United States, a vehicle was used to attack a crowd in Charlottesville, VA in August 2017. One person was killed, and 19 others were injured. In October 2017, a vehicle was rammed through a crowded bike lane in New York City. Eight people were killed, and 12 others were injured.

Recommendation: *VCSO should add the following language regarding supervisor responsibility: “Unless there are extenuating circumstances, a supervisor will immediately respond to any scene where a weapon (including a firearm, edged weapon, rocks, or other improvised weapon) is reported; where a person experiencing a mental health crisis or similar condition is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force.”*

VCSO action taken: VCSO has added this language to Directive 1.1 Use of Force Guidelines.

Recommendation: *IA administrative investigations should focus on the actions that preceded the incident, in addition to the incident itself. Internal Affairs investigators should review the incident for tactical concerns, policy violations, and training-related issues. Investigators should brief the sheriff as soon as feasible (preferably, between 48-72 hours following an incident) regarding any observed issues (e.g., equipment problems, policy matter, etc.) that may need immediate attention.*

VCSO action taken: This element has been added to VCSO’s newly formed *Critical Incident Review Panel*, which convenes at the conclusion of any investigated incident involving the use of deadly force and/or the intended use of deadly force in order to review and determine whether changes to policy, training, and/or procedures are needed.

Recommendation: *VCSO should revise its requirements for documenting response to resistance. The revised policy should require reporting when:*

1. *A firearm was unintentionally discharged.*
2. *Any employee takes an action that results in or is alleged to have resulted in any injury or death of another person.*
3. *Any employee applies force through the use of a lethal weapon, a less-lethal weapon, a weapon of opportunity, or personal weapons (such as punches, elbow strikes, knee strikes, kicks, etc.).*
4. *An agency canine bites or inflicts injury to an individual.*

VCSO action taken: VCSO is adjusting policy to meet these recommendations.

Recommendation: *VCSO should include the following language in its use-of-force policy: “The pointing of a firearm or an Electronic Control Weapon (ECW) at an individual as a threat of force will be documented in incident reports but does not require the completion of a response to resistance report.”*

VCSO action taken: VCSO has added this language to Directive 1.1 Use of Force Guidelines under Required Reporting.

Finding: PERF’s review of VCSO’s draft of Directive 1.3 (“Use of Less-Lethal Weapons and Devices”) revealed several opportunities for improvement. For instance, the current draft policy seems to allow for the use of less-lethal devices and weapons against a person demonstrating passive resistance if the person has known violent tendencies or other exigent circumstances

exist. PERF also identified several areas where VCSO can strengthen its Electronic Control Weapon guidelines.

Recommendation: *VCSO should add language to its use-of-force policy that is similar to Chapter 1.3 (“Use of Force”) of the New Orleans Police Department’s (NOPD) Operation Manual, which was crafted as the result of a consent decree with the United States Department of Justice. NOPD’s policy includes the following language: “Deputies shall not use force to overcome passive resistance, except that physically moving a subject is permitted when it is necessary and objectively reasonable.”¹⁰*

VCSO action taken: VCSO has added this language to Directive 1.1 Use of Force Guidelines requiring that the deployment of use of force on passive resistance/crowd control/demonstrations must be determined solely by the Sheriff or Chief Deputy.

Recommendation: *VCSO should revise its policy to replace all references to “Conducted Energy Device” or “TASER” with the more descriptive and appropriate term, “Electronic Control Weapon (ECW).” This change will help clarify that ECWs are in fact weapons that carry a risk of harming persons, including fatal injuries in some cases. The change should be made throughout VCSO’s policy manual and in all other orders, directives, and training curricula which reference such devices.*

Recommendation: *VCSO should prohibit the use of ECWs on deputies during training. Presently, VCSO allows deputies to volunteer to be subjected to an ECW discharge. Because this creates an unnecessary risk of injury, it would be best for VCSO to remove the policy language requiring deputies to be subjected to an ECW discharge as part of the agency’s certification process, and no longer give deputies the option to experience an ECW deployment.*

Recommendation: *VCSO should add the following language to its ECW guidelines: “Deputies should use an ECW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Deputies should consider that exposure to an ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase risk of death or serious injury. Any subsequent applications should be independently justifiable, and the risks should be weighed against other force options.”¹¹*

VCSO action taken: VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Device and in accordance with training.

Recommendation: *VCSO’s policy should include the following language: “Deputies are not to intentionally deploy more than one ECW at a time against a subject.”*

¹⁰ New Orleans Police Department Operations Manual Chapter 1.3, Use of Force
<https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-1-3-Use-of-Force.pdf> Page 11.

¹¹ Ibid, p. 20.

Recommendation: *VCSO should remove the language allowing for the use of drive stun mode and replace it with language that prohibits the use of the drive stun mode as a pain compliance technique. The drive stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between deputies and the subject so that deputies can consider another force option.*

Recommendation: *VCSO should include the following language to clarify its position on using an ECW against a fleeing subject: “Fleeing should not be the sole justification for using an ECW against a subject. Personnel should consider the severity of the offense, the subject’s threat level to others, and the risk of serious injury to the subject before deciding to use an ECW on a fleeing subject.”*

VCSO action taken: *VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.*

Recommendation: *VCSO should modify this section to state: “ECWs should not be used when a subject is in an elevated position where a fall may cause substantial injury or death.”*

VCSO action taken: *VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.*

Recommendation: *VCSO should add the following language: “The use of ECWs against pregnant women, elderly persons, young children, and visibly frail persons is prohibited. Personnel should evaluate whether the use of the ECW is reasonable, based upon all circumstances, including the subject’s age and physical condition.”*

VCSO action taken: *VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.*

Recommendation: *VCSO should include the following statement: “ECWs should not be used on handcuffed subjects unless doing so is necessary to prevent them from causing serious bodily harm to themselves or others and lesser attempts of control have been ineffective.”*

VCSO action taken: *VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.*

Recommendation: *The following language should be included in VCSO’s ECW policy: “The use of ECWs against subjects in physical control of a vehicle in motion (e.g., automobiles, trucks, motorcycles, ATVs, bicycles, scooters) is prohibited.”*

VCSO action taken: *VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.*

Recommendation: *VCSO leaders should determine if the agency will permit or prohibit the use of ECWs against aggressive animals. This decision should be included in policy so deputies will know what options are available to them in a situation with an aggressive animal.*

Recommendation: *VCSO's policy should state the following: "Intentionally targeting of other sensitive areas (e.g., head, neck, genitalia) with the ECW is prohibited."*

VCSO action taken: VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.

Recommendation: *VCSO should also include policy language that states that deputies should not target the chest area (specifically, the area near the heart) with an ECW.*

VCSO action taken: VCSO currently trains in this manner and will plan to add language to formalize in policy.

Recommendation: *VCSO's policy should state that deputies should be aware that there is a higher risk of sudden death when an ECW is used against subjects under the influence of drugs and/or exhibiting symptoms associated with excited delirium.*

VCSO action taken: VCSO has added this language to Directive 1.3 Use of Less-Lethal Weapons and Devices and in accordance with training.

Recommendation: *If not current practice, VCSO should require deputies to keep ECWs in a weak-side holster and should train to perform a weak-hand draw or cross-draw to reduce the possibility of accidentally drawing and/or firing a sidearm when the ECW is intended. Transitioning the ECW to the strong hand after drawing with the weak hand should be allowed. This should also be reflected in policy.*

VCSO action taken: Carry of the Taser on weak-side is addressed in VCSO Directive 22.6 Appearance, Uniforms and Equipment.

Recommendation: *If not current practice, VCSO should consider adopting brightly colored ECWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the ECW for a firearm. Specialized units such as SWAT may prefer dark-colored ECWs for tactical concealment purposes.*

Deputy-Involved Shooting Case File Review

Finding: Of the 12 closed deputy-involved shooting (DIS) cases that PERF reviewed, 11 were ruled as exonerated by VCSO.

Recommendation: *When investigating use-of-force incidents, VCSO's Use-of-Force Review Board should focus not just on whether the deputy's actions were legal, but*

should also consider whether there was a better way for the deputy to have responded to the incident that might have reduced the risk of injury to all involved. This type of review is critical to strengthening deputy performance and can be beneficial to deputies, the agency, and the community as a whole. The findings from this review should be shared with the deputy's chain of command in order to strengthen performance. Findings should also be incorporated into training so that all deputies are provided with an opportunity to learn from the incident. The findings should not be considered when determining case disposition.

VCSO action taken: VCSO has implemented this recommendation.

Finding: Both the criminal and administrative investigations were closed for 80% (n=12) of the 15 DIS incidents reviewed by PERF. The average time to closure is about seven months. At the time of PERF's review, two cases from 2017 and one case from 2016 remained open.

Finding: VCSO's deputy-involved shootings most often occurred in the six-hour period between 6 p.m. and 12 a.m. In terms of location, DIS incidents most frequently occurred in District Four (eight of the 15 DIS incidents). These findings suggest that VCSO should focus additional supervision, training, and resources to the shifts and districts in which most police activity is likely to occur.

Recommendation: *VCSO should conduct ongoing reviews of the agency's DIS data to determine the days, times, and locations in which DIS incidents are most likely to occur. VCSO should use this information to inform decisions regarding deputy and supervisor deployment and assignments, as well as to ensure that deputies working these shifts have the training and supervision that they need to defuse potential deadly force incidents. For example, it might be effective to target additional use-of-force training to deputies who are more likely to be engaged with the public, especially those who respond to service requests. It might also be useful to prioritize implementing ICAT training¹² in District 4 and other districts that have a high volume of police activity. In addition, agency firearms training should include scenario-based exercises that mimic nighttime (reduced light) conditions. These scenarios should focus on deputy decision-making and sound judgment.*

VCSO action taken: The VCSO Training Section trains on nighttime (reduced light) shooting conditions. The scenarios focus on deputy decision-making and sound judgement. This training is particularly emphasized during new deputy training.

Finding: Of the 15 DIS incidents, 11 were contact shootings, meaning that a subject was struck by a bullet. VCSO handles all contact and non-contact shootings as serious in nature, which is a recommended practice, because it is the deputy's *intent* to shoot that matters, not his or her marksmanship. Presenting non-contact shootings to the State Attorney's Office (SAO) would further strengthen VCSO's practice.

¹² See Police Executive Research Forum (2016). *ICAT: Integrating Communications, Assessment, and Tactics. Training Guide for Defusing Critical Incidents.* <http://www.policeforum.org/assets/icattrainingguide.pdf>

Recommendation: *VCSO should brief the State Attorney’s Office (SAO) on its investigative findings on non-contact shooting cases. The SAO should review non-contact shooting cases and determine whether there was criminal responsibility. VCSO should request the SAO’s written findings, in the same manner it does when a subject is shot during a DIS incident.*

VCSO action taken: VCSO has implemented this practice.

Finding: PERF’s review of VCSO’s DIS case files revealed several facts that, particularly when taken together, suggest that VCSO could benefit from additional policies that emphasize de-escalation, crisis intervention, communications, “slowing-down” situations to gain additional time, waiting for back-up, and the use of less-lethal weapons. For example:

- 80% (n=12) of VCSO’s DIS incidents involved a deputy who was assigned to patrol. This finding is not especially surprising, giving that patrol deputies typically interact with the public at higher rates.
- In nearly two-thirds of the DIS incidents in which a deputy was dispatched to the scene, the shooting took place between one and 10 minutes after the deputy arrived on scene.
- A large percentage of DIS cases involved a subject who may have been experiencing a mental health crisis (20%, n=3) or a chemically impaired subject (60%, n=9).

Examples of tools that emphasize these concepts and could be useful to VCSO include PERF’s Critical Decision-Making Model (CDM) and ICAT: Integrating Communications, Assessment, and Tactics (ICAT) training.

Recommendation: *VCSO should provide training on key de-escalation principles, including discussion of proportionality, using distance and cover, tactical repositioning, “slowing down” situations that do not pose an immediate threat, calling for a supervisor to respond, calling for specialized personnel and resources to the scene as appropriate, and related concepts. This training should be scenario-based and integrated into the agency’s overall use-of-force training.*

VCSO action taken: The VCSO Training Section trains on this concept during new deputy training. Several scenarios in VCSO’s Practical Application Week allow deputies to learn and practice these concepts.

Recommendation: *VCSO should provide scenario-based training to provide deputies with options for handling situations where the subject is armed with a non-firearm weapon. Specifically, these scenarios should be designed to encourage deputies to utilize the Critical Decision-Making Model (CDM), communications and crisis intervention skills, operational safety tactics, and other tools to de-escalate situations and in many cases resolve them without use of force.*

VCSO action taken: The VCSO Training Section trains on this concept during new deputy training. Scenario-based training is incorporated to emphasize these concepts, and reinforced with videos and lectures.

Finding: The majority of DIS incidents (60%) that occurred between January 2014 and June 15, 2017 took place with a supervisor on scene. Based on PERF's analysis, in five of the six incidents that occurred in 2016, a supervisor was on scene when the shooting occurred. However, PERF found that a supervisor was on scene for only one of the four 2017 DIS incidents reviewed. **Many law enforcement agencies have found that dispatching a supervisor to the scene of a critical incident can reduce the likelihood that lethal force will be used. Some police agencies have trained their dispatchers to specifically ask patrol supervisors if they are en route to certain high-risk calls.**

Recommendation: *VCSO should ensure that supervisors are immediately dispatched to any scene:*

- *Where a weapon is reported (including firearm, edged weapon, rocks, or other improvised weapon);*
- *Where a person experiencing a mental health crisis is reported; or*
- *Where a dispatcher or other member of the department believes there is potential for significant use of force.*

VCSO action taken: VCSO has consolidated and formalized this practice and added this requirement to *Directive 1.1 Use of Force Guidelines*.

Recommendation: *VCSO should also ensure that first-line supervisors are trained in techniques that will help reduce the likelihood of unnecessary force occurring. For example, VCSO should ensure that all first-line supervisors are provided training on de-escalation strategies; the utilization of operational safety tactics;¹³ tactical communications techniques;¹⁴ and crisis intervention in order to reduce the likelihood of unnecessary force.*

VCSO action taken: The VCSO Training Section plans to implement this into its first line supervisor course, which is administered to new and aspiring supervisors. Additionally, the VCSO Training Section has made a list of agency sergeants who have not taken a Crisis Intervention Training course. Sergeants who have not completed the course will be included in future classes. This will ensure that all supervisors have undergone Crisis Intervention Training.

Recommendation: *The Sheriff should also meet with personnel at the level of sergeant to stress the importance of their role as a supervisor in critical incidents. This was the approach taken in the Palm Beach County Sheriff's Office (PBSO), where Sheriff Ric Bradshaw introduced the concept of a "tactical pause"—a time for supervisors and*

¹³ Police Executive Research Forum, ICAT: Integrating Communications, Assessment, and Tactics. Training Module 5, Operational Safety Tactics. <http://www.policeforum.org/assets/icattrainingguide.pdf>

¹⁴ Police Executive Research Forum, ICAT: Integrating Communications, Assessment, and Tactics. Training Module 4, Tactical Communications. <http://www.policeforum.org/assets/icattrainingguide.pdf>

deputies to pause and consider their options before engaging a potentially threatening subject. Sheriff Bradshaw initiated this process by discussing the philosophy in a group setting with all personnel at the level of sergeant and above, and PBSO continues to stress this approach through in-service and roll call training. PERF's review of PBSO data since 2010 suggests that this concept may already have had the positive impact of helping to reduce the number of deputy-involved shootings.

VCSO action taken: Upon taking office, the Sheriff immediately scheduled meetings to personally address these philosophies and stress their importance to all involved. Roll call trainings will also be conducted periodically to reinforce this approach to critical incidents. The Sheriff also personally responds to many critical incidents with his deputies.

Training

Finding: PERF reviewed the curricula that is used during VCSO's 10-week Field Training and Evaluation Period (FTEP).¹⁵ Most of the material covered during FTEP is essential information that new deputies should be taught. However, some of the material seems to be based on the general concept that deputies' role is that of a "warrior," as opposed to a "guardian" of the community. For example, the first course of FTEP is titled "Deputy Awareness: Surviving the Career." Much of the content of this course suggests that deputies will constantly be under attack and that they must act aggressively to prevent or respond to attacks. Additionally, PERF learned that VCSO refers to a firearms course as the "Combat Shooting Course" – which may subtly reinforce the "warrior" mentality.

VCSO action taken: The VCSO Training Section no longer instructs in the traditional "warrior" culture mentality. The New Deputy Training Program (formerly the Field Training and Evaluation Training) has been revamped with a "guardian" approach to law enforcement and includes current police concepts specifically designed around the Critical Decision-Making Model. Additionally, the program promotes and encourages deputies to utilize tactics conducive to responding in a manner of thinking about proportionality and a "totality of the circumstances" approach to performing their lawful duties, especially during potentially volatile situations.

Recommendation: *Rather than beginning field training with courses that instill a "warrior" mindset among new deputies, VCSO should focus on the most significant issues in law enforcement, such as:*

- *The mission and role of law enforcement in a democratic society;*
- *Critical thinking;*
- *The sanctity of human life;*
- *Overall use-of-force policies, de-escalation, and crisis intervention strategies; and*
- *Analyzing complex situations and choosing effective responses.*

¹⁵ The Field Training and Evaluation Period (FTEP) is completed by VCSO's newly hired deputies.

By focusing on the most important issues first, VCSO can send an important message to new deputies about the agency's priorities, the nature of the profession, and what is expected of them. VCSO should revise the content to reflect that deputies are "guardians" and serve the community.

Recommendation: *The content and requirements of VCSO's "Combat Shooting Course" are the same as those of a standard law enforcement firearms qualification course. Therefore, VCSO should change the title of the "Combat Shooting Course." The new title of this course should not reinforce the "warrior" mindset among deputies. VCSO can simply refer to the course as "Firearms Qualification Course."*

VCSO action taken: The VCSO Training Section no longer instructs in the traditional "warrior" culture mentality. The lesson plan will be changed to reflect the new title of "Firearms Qualification Course." There are no longer any courses of instruction called or referred to as "Combat Shooting." Firearms training for new deputies is called VCSO Firearms Training.

Recommendation: *VCSO should implement PERF's Integrating Communications, Assessment, and Tactics (ICAT) training for new deputies during the first week of field training. Introducing this training early will provide new deputies with the foundation for learning tools and developing skills and options they need to successfully and safely handle a wide range of critical incidents. This will also introduce the Critical Decision-Making Model (CDM) early in training, which will allow deputies to use the CDM as they progress through training.*

VCSO action taken: The VCSO Training Section trains on this concept during new deputy training. The Critical Decision-Making model PowerPoint from ICAT training is presented during the Environmental Awareness block of instruction.

Finding: During this review, PERF learned that VCSO's new deputies are taught how to apply several neck restraints during field training. PERF did not find any language in VCSO's policies allowing or prohibiting the use of any type of neck restraint.

Recommendation: *PERF has generally recommended the prohibition of any type of neck restraint, due to the limited occasions in which it is ever used, and the extensive training and skill required to perform it effectively. If VCSO decides that deputies can use neck restraints, it must ensure that all deputies are trained and tested yearly on the proper techniques, and that policy and training are revised so that **it is authorized only in situations in which lethal force is authorized.***

VCSO action taken: VCSO has added this language to *Directive 1.1 Use of Force Guidelines* and in accordance with training. The VCSO Training Section trains deputies to utilize neck restraint techniques *only* as a lethal force option. During defensive tactics training (new deputy and refresher training), neck restraints which would choke a subject's carotid artery or windpipe are

specifically referred to as lethal force options and are to *only* be used when lethal force is justified by policy.

Finding: VCSO currently provides new deputies with 40 hours of Crisis Intervention Team (CIT) training during field training. PERF learned that this training includes four days of lecture-based instruction, followed by one day of scenario-based training.

Recommendation: *Concepts taught during ICAT training should be integrated into the CIT scenario-based training. For example, as deputies work through scenarios, VCSO should ensure that deputies are implementing the CDM and the tactics learned during ICAT training.*

VCSO action taken: The VCSO Training Section trains on this concept during Crisis Intervention Training.

Finding: New deputies attend courses on several less-lethal weapons. In VCSO current curricula, these weapons are referred to as “Taser,” “ASP/Redman,” and “Freeze+P.”

Recommendation: *VCSO should change the titles of “Taser”, “ASP/Redman”, and “Freeze+P” courses to “Electronic Control Weapons,” “Expandable Baton,” and “Oleoresin Capsicum Spray.”*

Recommendation: *VCSO should review the material taught during the ECW, expandable baton, and oleoresin capsicum spray courses to ensure that the content matches the agency’s updated policies regarding the use of these less-lethal weapons.*

VCSO action taken: VCSO utilizes training subject matter experts as part of all use of force policy reviews and revisions.

Recommendation: *VCSO should reinforce the utilization of the Critical Decision-Making Model (CDM) during this week of field training. Even though new deputies are learning how to use less-lethal weapons during this week of training, it should be reiterated that deputies should always have a back-up plan in cases where a less-lethal weapon is not effective, and that de-escalation is about diffusing situations before it becomes necessary to use force, rather than reducing the use of physical force when it is necessary.*

VCSO action taken: The VCSO Training Section trains on this concept during new deputy training. The Critical Decision-Making model PowerPoint from the ICAT training is presented during the Environmental Awareness block of instruction and these concepts are integrated in the lecture and throughout any training provided.

Finding: One week of VCSO’s field training is dedicated to reality-based scenarios. New deputies take part in scenarios on clearing a building, one-deputy response to calls, two-deputy response to calls, and traffic stops.

Recommendation: *VCSO should continue to use scenario-based training during field training. In addition to scenarios currently used, VCSO should also incorporate scenarios that focus on reinforcing the “guardian” mindset, VCSO’s mission and values, the use of de-escalation, proportionality, and minimizing use of force.*

VCSO action taken: The VCSO Training Section trains on this concept during new deputy training.

Finding: VCSO personnel told PERF that the agency’s 2017 in-service training only included two hours of instruction on de-escalation. PERF believes that additional de-escalation training should be provided to veteran deputies during in-service training.

Recommendation: *In future in-service training, VCSO should provide eight hours of ICAT training for veteran deputies. Additionally, VCSO should ensure that the ICAT training is coupled with scenarios, so deputies will have opportunities to practice de-escalation skills.*

VCSO action taken: VCSO’s Training Section plans to incorporate and dedicate an 8-hour block of instruction on ICAT training during in-service training in 2019. The course will include scenario training which will allow deputies to have opportunities to practice de-escalation skills.

Recommendation: *VCSO should develop and improve crisis intervention team (CIT) training. This should involve the identification of specific deputies who could be provided additional specialized training and who could respond to calls involving individuals experiencing a crisis. VCSO may also consider pairing deputies who have completed additional CIT training with a mental health/substance abuse caseworker to provide constant coverage to the county.*

Additional Recommendations

Finding: Based on observations made during this review, PERF found additional areas for improvement regarding VCSO’s crisis intervention response, accountability, and transparency.

Recommendation: *VCSO should formalize the Sheriff’s Advisory Board. The board should include representatives from all areas of Volusia County, as well as individuals representing minority groups in the community.*

Recommendation: *VCSO should develop a critical incident review panel. Agency leaders should carefully select VCSO personnel to serve on this panel. Following an Internal Affairs administrative review of an incident, investigators should brief the critical incident review panel. The panel should thoroughly analyze the incident for matters related to tactical decision making, adherence to agency policy and procedures, training issues, quality of supervision during the incident, and quality of the investigations related to the incident. This analysis should include a review of events that occurred prior to, during, and after a critical incident to determine whether changes to*

policy, training, and procedures are needed to improve the response to these incidents. The results should be incorporated into training so that deputies can learn how to better respond to critical incidents. The critical incident review panel should compile a report to the sheriff with recommendations for accountability measures and suggestions for improvement.

The critical incident review panel may also be used to conduct routine audits of a sample of other use-of-force case reports (depending on the number of reports) to ensure that all use-of-force incidents are being thoroughly and consistently reviewed by supervisors. These reviews could be conducted either quarterly or every six months, and the panel could provide a summary of its findings and any recommendations for improvement to the sheriff. In some cases, this administrative investigative review team could provide direct feedback to supervisors or request that specific incidents receive additional review or follow up.

VCSO action taken: These elements have been added to VCSO's newly formed *Critical Incident Review Panel*, which convenes at the conclusion of any investigated incident involving the use of deadly force and/or the intended use of deadly force in order to review and determine whether changes to policy, training, and/or procedures are needed.

Recommendation: *Currently, VCSO deputies may call the crisis line for a local mental health facility and wait for a mental health provider to respond when deputies encounter someone experiencing a mental health crisis or substance abuse-related crisis. PERF recommends that VCSO move toward a more proactive response that includes a deputy partnered with a mental health care provider for crisis response. Partnering deputies to patrol with a mental health care provider would allow for an immediate response and reduce the chances of a crisis situation escalating.*

Recommendation: *To increase transparency regarding the use of force and the use-of-force investigation and review process, VCSO should post its Department Standards Directives online, with exceptions for cases in which release of policies on specific tactics could jeopardize deputies' safety. Many law enforcement agencies are making their department policies available for review online, and this is regarded as a progressive practice in policing. Examples of two major law enforcement agencies that have posted their policies online are the Seattle and Los Angeles Police Departments.*

- <http://www.seattle.gov/police/publications/manual/default.htm>
- http://www.lapdonline.org/lapd_manual/

VCSO action taken: VCSO plans to post its policy online at the completion of this review.

Recommendation: *VCSO should accept commendations, as well as complaints against deputies, through the agency's website. The complaint process may not be intuitive for some people who are not familiar with how law enforcement agencies are structured. There should be a clearly identifiable link on VCSO's website that allows individuals to*

easily access the complaint process information and the form to file a complaint, or a commendation.

Recommendation: *VCSO should create an annual use-of-force report that includes the following information:*

- *How data on use-of-force incidents are captured,*
- *The number of incidents that occurred, and*
- *Whether the incidents were within policy.*

This report should be used to better understand use-of-force trends and opportunities for improvement. The report should be made available on the agency's website. Many police departments publish annual use-of-force reports on their departmental websites. One example is the Seattle, WA Police Department.¹⁶

Recommendation: *VCSO should create an Internal Inspection Unit to be located within the Professional Standards Division. The Internal Inspection Unit should conduct proactive routine inspections of any VCSO units or activities. Routine internal inspections are an important accountability mechanism. Inspections can help to determine whether an agency's procedures and policies are being properly implemented, whether resources are used wisely, and whether there are any deficiencies in areas such as training, morale, and supervision. Progressive law enforcement agency management benefits from a comprehensive and robust inspection process.*

Moving Forward

Through the commissioning of this review, VCSO has demonstrated a commitment to fully incorporating progressive policing practices. VCSO has taken steps to strengthen its use-of-force policy, and plans to implement ICAT training agency-wide. These efforts, along with VCSO's commitment to making further improvements, will help the agency as it seeks to uphold the sanctity of life, to protect the well-being of all VCSO deputies, and to strengthen its relationships with the community it serves.

¹⁶ Seattle Police Department. (2017). *Use of Force Annual Report*.
<https://www.seattle.gov/Documents/Departments/Police/Publications/Use%20of%20Force%20Annual%20Report%20-%20Final.pdf>

INTRODUCTION

In May 2017, the County of Volusia, FL commissioned the Police Executive Research Forum (PERF) to conduct an assessment of the Volusia County Sheriff's Office's (VCSO) use-of-force policies, practices, and training. The purpose of this study was not to investigate any specific incident or deputy, but rather to review policies, practices, and the department "culture" regarding use-of-force issues within VCSO. PERF's review included a thorough analysis of VCSO's policies and training, as well as the case files from 15 deputy-involved shootings, to determine whether the agency's directives and techniques are aligned with progressive practices and national standards regarding the use of force.

Throughout the duration of this project, VCSO personnel demonstrated a desire to improve in these areas, as leaders worked to modify the department's use-of-force policy and implement new department-wide training. The recommendations in this report aim to ensure that VCSO personnel will have the support, guidance, and tools to advance those efforts and better serve Volusia County.

PERF's review of VCSO's use-of-force policy, practices and training is based on the expertise PERF has developed in conducting dozens of similar reviews for other city and county law enforcement agencies; PERF's extensive research on use-of-force policies; and a review of policies in law enforcement agencies that have entered into consent decrees with the United States Department of Justice over use-of-force issues.¹⁷

About Volusia County and the Volusia County Sheriff's Office

Volusia County is located in eastern Florida on the Atlantic Coast, north of Orlando. The county covers a land area of 1,101 square miles, and has a population of approximately 529,364 people.¹⁸ As of 2016, the racial and ethnic composition of Volusia County residents was:¹⁹

- 84.3% White
- 13.0% Hispanic or Latino²⁰
- 11.2% Black or African American
- 2.0% Two of More Races
- 1.9% Asian
- 0.5% American Indian/Alaska Native
- 0.1% Native Hawaiian/Other Pacific Islander

¹⁷ PERF conducted extensive research on the DOJ consent decree process, summarized in our 2013 report, "Civil Rights Investigations of Local Police: Lessons Learned."

http://www.policeforum.org/assets/docs/Critical_Issues_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf

¹⁸ U.S. Bureau of the Census. 2017. "Quick Facts: Volusia County, Florida." Retrieved November 1, 2017 (<https://www.census.gov/quickfacts/fact/table/volusiacountyflorida,US/PST045216>).

¹⁹ Ibid.

²⁰ The U.S. Census Bureau notes that percentages add to more than 100 because "Hispanics may be of any race, so also are included in applicable race categories."

VCSO is a full-service sheriff's department that serves Volusia County. At the time of PERF's review, VCSO employed approximately 460 sworn deputies. In addition to serving the unincorporated areas of Volusia County and the Daytona Beach International Airport, the VCSO also provides contract law enforcement services to the municipalities of Deltona, DeBary, Pierson and Oak Hill.

VCSO is divided into a Law Enforcement Operations Division and a Support Operations Division. Both divisions are led by a Chief. The Law Enforcement Operations Division is divided into four districts, the Investigative Services Section (ISS), and an Administrative Section. The four districts, the ISS, and the Administrative Section are each led by a Captain. The Support Operations Division includes Special Operations, Training, Evidence, and Court Services Sections. Each section in the Support Operations Division is led by a Captain.

Project Scope and Methodology

For this project, PERF was charged with completing the following tasks:

- Reviewing policies, procedures, and training curricula related to the use of force.
- Conducting onsite interviews and focus groups with a cross-section of VCSO personnel.
- Reviewing use-of-force training procedures and practices, including those related to de-escalation or crisis intervention.
- Reviewing and analyzing VCSO deputy-involved shooting case files.
- Developing findings and recommendations, to be presented in a report to the Volusia County Sheriff's Office.

PERF used the following methods to collect information regarding VCSO's policies and practices:

Policy review and analysis: PERF reviewed and analyzed VCSO's policies, procedures, and other documents related to the use of force.

Onsite interviews and focus groups: PERF staff members conducted an initial site visit to Volusia County in June 2017 and a follow-up site visit in August 2017. During these site visits, PERF conducted interviews with agency leaders, supervisors, training staff, and deputies. PERF also participated in ride-alongs with VCSO patrol deputies. Upon completion of the two site visits, PERF conducted regular follow-up with VCSO staff to address questions that arose while completing this report.

Review of use-of-force training: PERF staff reviewed VCSO's use-of-force training procedures and practices, including training related to de-escalation or crisis intervention. PERF

observed lecture-based training and scenario-based training, and reviewed training lesson plans and curricula.

Train-the-trainer: In August 2017, PERF provided a train-the-trainer session to assist VCSO in implementing ICAT training of its personnel. This training will be discussed in more detail in the “ICAT Train-the-Trainer” section of this report.

Review of deputy-involved shooting cases: PERF reviewed and analyzed the case files for 15 deputy-involved shooting that occurred between 2015 and June 2017.

This report presents the findings from PERF’s review and provides recommendations for how the VCSO can strengthen its policies and practices to better serve the community. PERF shared several of these recommendations with VCSO leaders while this project was being conducted, and VCSO has already begun implementing a number of reforms, based on those discussions. The recommendations in this report are based on current research and reflect progressive policing practices that have been adopted in other police agencies.

SECTION I. USE-OF-FORCE POLICY REVIEW

PERF examined Volusia County Sheriff’s Office (VSCO) directives (policies) related to the use of force for thoroughness and compliance with nationally recognized progressive policing practices. Specifically, PERF reviewed VSCO’s use-of-force policy (VSCO Directive 1.1 “Use-of-Force Guidelines”), less-lethal weapons policy (VSCO Directive 1.3 “Use of Less-Lethal Weapons and Devices”), and electronic control weapons policy (VSCO Directive 1.9 “M26/X25 Advanced Taser”).

Prior to PERF’s review, VCSO had proposed changes to Directive 1.1 (“Use-of-Force Guidelines”) and Directive 1.3 (“Use of Less Lethal Weapons and Devices”), and VCSO provided the drafts of these proposed policies to PERF. Many of the changes included in the new draft were based on PERF’s 2016 report, *Guiding Principles on Use of Force*.²¹ In reviewing the draft versions of these policies, PERF identified several positive elements, as well as areas that could be strengthened.

This section presents recommendations for how the VCSO can improve the structure of its use-of-force policy, as well as specific recommendations for strengthening the current language in the use-of-force and other related policies.

Rethinking Use-Of-Force Policies, Practices, and Tactics

PERF’s review of VCSO’s use-of-force policies, training, and practices took place amid a national debate about police use of force. In the wake of many high-profile lethal force incidents that have occurred in the United States in recent years, it is more important than ever for police departments to strengthen their relationships with the community and to ensure that the sanctity of human life is at the heart of everything they do. This means examining use-of-force policies, practices, and training to make sure that they reflect the core ideal of preserving the lives of everyone – both officers and the people they are charged with serving and protecting.

PERF’s recent work regarding use of force has focused especially on police encounters with persons who are behaving erratically or dangerously because they have a mental illness, a developmental disability, or another condition that can cause them to behave erratically or to fail to understand and obey orders from a police officer. PERF also has focused on incidents involving people who either are unarmed, or are armed only with an edged weapon, a rock, or other weapons, but not a firearm. In 30 percent of the 990 fatal officer-involved shootings across the country in 2015, the subjects either were unarmed or were armed with a weapon other than a firearm.²²

²¹ Police Executive Research Forum. 2016. *Guiding Principles on Use of Force*.

(<http://www.policeforum.org/assets/guidingprinciples1.pdf>)

²² Kindy, Kimberly and Kennedy Elliott. 2015. “Six Important Takeaways from The Washington Post’s Police Shootings Investigation.” *Washington Post*, December 26.

(<https://www.washingtonpost.com/graphics/national/police-shootings-year-end/>).

It is these types of incidents where PERF believes there is the greatest potential for de-escalation and increasing the safety of everyone, including officers, by teaching officers to “slow the situation down,” bring additional resources to the scene, and use communications skills and operational safety tactics to resolve the incident without use of force. In situations where criminal suspects are brandishing firearms, officers have fewer options for how they respond. The remainder of this section discusses the key concepts at the center of PERF’s recent use-of-force work, which is detailed in two reports: *Re-Engineering Training on Police Use of Force*;²³ and *Guiding Principles on Use of Force*.²⁴ These concepts are woven throughout this report and provide the basis for many of the recommendations.

Re-Engineering Training on Police Use of Force

PERF convened a national conference in May 2015 to explore new approaches to policies and training on use of force. That conference, held in Washington, D.C., brought together nearly 300 police chiefs and other law enforcement executives, federal government officials, and academic experts.

PERF’s report, *Re-Engineering Training on Police Use of Force*, documents findings from the conference as well as from a 2015 PERF survey of law enforcement agencies that examined the use-of-force training provided to new recruits and experienced officers. The survey found that use-of-force training was primarily focused on firearms and defensive tactics training, while training on subjects such as de-escalation, communication, and crisis intervention was far less common. These findings suggested that agencies should supplement firearms and defensive tactics training with additional training on under-represented topics, and that training on de-escalation and crisis intervention should be integrated into a comprehensive training program, rather than “siloes” from other subjects.

PERF followed up with a number of smaller regional meetings to further develop the concepts in the “Re-Engineering” report, with an eye toward developing policy concepts and training principles that police agencies can adopt. In January 2016, PERF again convened an international meeting in Washington, in which nearly 200 police chiefs and other executives, federal agency representatives, mental health experts, academics, and others evaluated a draft of 30 “Guiding Principles on Use of Force” developed by PERF.

Guiding Principles on Use of Force

The Guiding Principles, which were released in final form in March 2016,²⁵ are designed to give officers more specific guidance and better options on use-of-force policy, training, tactics, equipment, and information needs. Some of the principles are general in nature (e.g., “Police use of force must meet the test of proportionality” and “Adopt de-escalation as formal agency

²³ Police Executive Research Forum. 2015. *Re-Engineering Training on Police Use of Force*. (<http://www.policeforum.org/assets/reengineeringtraining1.pdf>)

²⁴ Police Executive Research Forum. 2016. *Guiding Principles on Use of Force*. (<http://www.policeforum.org/assets/guidingprinciples1.pdf>)

²⁵ Ibid.

policy), while others are more specific (e.g., “Duty to intervene: Officers need to prevent other officers from using excessive force.”).

PERF’s Guiding Principles report also presents a new tool to support decision-making in the field, including during critical incidents. This tool, known as the **Critical Decision-Making Model (CDM)**, is based largely on the National Decision Model that has been used effectively in the UK for several years. The CDM is designed to teach officers how to think critically about many types of complex situations, including incidents that could end with a use of force. Essentially, during a critical incident, officers using the CDM continually ask themselves questions about the nature of the incident, any threats and risks, their powers and authority to take various actions, and their options. Then they take action, assess whether the action had the desired effect, and if necessary, begin the process again.

In a situation involving a potential use of force, officers trained in the Critical Decision-Making Model ask themselves questions such as, “Do I need to take immediate action, or do I have time to slow this situation down? What is the threat? What information do I need about the person I am dealing with? How can I establish rapport with this person and ask him questions that will help me assess what is happening and the risks? Do I need additional resources at the scene, such as specialized equipment, other police units, a supervisor, or officers specially trained in mental health issues? What could go wrong here, and how serious would the harm be? How can I mitigate potential threats?”

While this may sound complicated, officers who have been trained in the CDM have said that as they use it every day in various situations, it becomes second-nature. They compare it to driving a car. When a person is first learning to drive, every action, such as activating a turn signal or keeping the car centered in a lane, requires thought. But after a short time, drivers perform many of the tasks of driving without consciously thinking about them. Similarly, officers who use the CDM become accustomed to constantly evaluating situations and considering their potential responses.

Overall Policy Organization and Terminology

Presently, VCSO has separate directives related to the use of force and the equipment that may be used in situations where deputies have no options other than to use force. **PERF believes VCSO would be better served if all directives related to the use of force, with the exception of VCSO Directive 41.9 (“K-9 Units”), were combined into one directive.** A comprehensive use-of-force policy will make it easier for deputies to find the information they need pertaining to the use of force.

Recommendation: *VCSO should combine all directives governing use of force, including those pertaining to less-lethal weapons, into one comprehensive policy. Creating one clear policy is essential to the department’s management of use-of-force issues and will make it easier for deputies to find information regarding the use of lethal and less-lethal force. VCSO should merge Directive 1.3 (“Use of Less-Lethal Weapons*

and Devices”) and Directive 1.9 (“M26/X26 Advanced Taser”) into Directive 1.1 (“Use-of-Force Guidelines”) to have one comprehensive use-of-force policy.

Recommendation: *As VCSO merges its individual directive into one comprehensive use-of-force policy, the content of the policy should be organized in the format described below:*

- *Purpose*
- *Discussion*
- *Policy*
- *Definitions*
- *Procedure*
- *Force Guidelines*
- *Lethal Force (Currently referred to as Deadly Force)*
 - *Reporting the Discharge of a Firearm*
 - *Use of Lethal Force Against a Vicious Animal*
 - *Deputy-Involved Shooting Procedures*
 - *Lethal Force or In-Custody Death Reporting*
 - *Non-Disciplinary Relief from Duty*
 - *Administrative Investigation for Deputy-Involved Shooting or In-Custody Death*
 - *Return of Agency-Issued Firearm*
- *Less Lethal Force*
- *Less Lethal Weapons*
 - *Emergency Restraint Chair*
 - *Wireless Electronic Restraint Device*
 - *Dog Repellent Spray*
 - *Oleoresin Capsicum Spray*
 - *Electronic Control Weapon*
 - *Impact Weapon – Expandable Baton*
 - *Impact Weapon – Defensive Tools of Opportunity*
 - *Specialty Impact Munitions*
- *Administrative Review: Response to Resistance*

PERF found that VCSO uses brand names to refer to several of the less-lethal weapons described in the agency’s policy. For instance, electronic control weapons (ECWs) are referred to as “Tasers,” and oleoresin capsicum spray is referred to as “Freeze+P.” PERF believes VCSO would be better served if generic terms were used to refer to these weapons in the agency’s use-of-force policy.

Recommendation: *VCSO should refer to less-lethal weapons in generic terms (e.g., Electronic Control Weapons, expandable baton, oleoresin capsicum spray, etc.) instead of using the brand name of each particular weapon. VCSO should avoid using brand names because these names can change, or the agency may upgrade to equipment that goes by a different brand name. Using generic terms to refer to these weapons in policy will make it unnecessary for VCSO to update its policy should these events occur.*

Recommendations for Draft Directive 1.1. (“Use-of-Force Guidelines”)

VCSO’s current draft policy on use of force is found in Directive 1.1, (“Use-of-Force Guidelines”). PERF identified areas in this directive where VCSO’s existing policy language and practices can be improved. The areas of VCSO’s policy that need to be strengthened and recommended changes are detailed in the following sections.

Current Directive 1.1 Section: Discussion

The “Discussion” section of VCSO’s draft of Directive 1.1 (“Use-of-Force Guidelines”) explains the agency’s philosophy regarding the use of lethal and less-lethal force. Included in this section is language emphasizing the sanctity of human life. This section also acknowledges that deputies may need to make sudden judgements regarding the use of force “based on an objectively reasonable perception at the time of the threat or danger.

VCSO can add to this section of its policy by including a discussion on proportionality.

Recommendation: *VCSO should add a discussion concerning the key principles of proportionality to this section. VCSO should consider the following language: “Deputies should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality also depends on the nature and severity of the underlying events. For example, there are some incidents that are minor in nature, but the mere presence of law enforcement may escalate the situation. Under the concept of proportionality, deputies would recognize that even though they might be legally justified in using force as a situation escalates, given the minor nature of the underlying event, a more appropriate and proportional response would be to step back and work toward de-escalation.”²⁶*

Current Directive 1.1 Section: Policy

This section of VCSO’s draft use-of-force policy includes language instructing deputies to use only the amount of force necessary to overcome a threat or to effect an arrest. The policy clearly states that excessive force will not be tolerated. Additionally, this section contains language that allows deputies to use force that is reasonable and necessary under the circumstances to protect others or themselves. Deputies are also instructed to use de-escalation tactics (e.g., using “time and distance,” in other words, maintaining a safe distance from the subject in order to slow a situation down, rather than incautiously rushing toward the subject, which can result in a need for immediate use of force) in order to resolve potential use-of-force situations.

²⁶ Police Executive Research Forum (2016). *Guiding Principles on Use of Force*. <http://www.policeforum.org/assets/guidingprinciples1.pdf>.

While VCSO has clear language regarding the agency’s expectation pertaining to excessive force and de-escalation, this section of the policy could be improved by including language regarding the duty to intervene. Furthermore, deputies should be required to use critical thinking skills when experiencing potential use-of-force situations.

Recommendation: *VCSO should add a statement regarding the duty to intervene to this section of the use-of-force policy. This statement should include the following language: “Deputies have a duty to intervene if they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”*

Recommendation: *VCSO should include language regarding the use of critical thinking skills as an important tool when deputies experience situations in which there is the potential for the deputy to use force. This language should include the following: “VCSO personnel will use critical thinking skills to assist them in determining the appropriate action and response for resolving incidents.”²⁷ Additionally, VCSO should commit to training deputies and supervisors to use critical thinking so they will understand how to use these skills when faced with potential use-of-force situations.*

Current Draft Directive 1.1 Section: Definitions

VCSO’s draft policy includes the following definitions:

- **Deadly Force:** Any force which is likely to cause immediate death or serious bodily/physical harm including, but not limited to:
 1. Use of any weapon or other force in a manner which is likely to cause death or serious bodily/physical harm.
 2. Discharge of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm.
 3. The firing of a firearm at a vehicle in which the person to be arrested is riding.
- **De-Escalation:** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- **Defensive Weapon:** Any readily available object or instrument used by a Deputy in a reasonable manner to defend against a violent attack in order to avoid being seriously injured or killed, and when other conventional weapons or use of force alternatives are not readily available under the exigent circumstances.
- **Great /Serious Bodily Harm:** A bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement, or results in long-term loss or the impairment of the functioning of any bodily member or organ.
- **Imminent:** Threatening, likely, and unavoidable; impending; immediate potential threat to the life and/or safety of the Deputy or another human being(s).

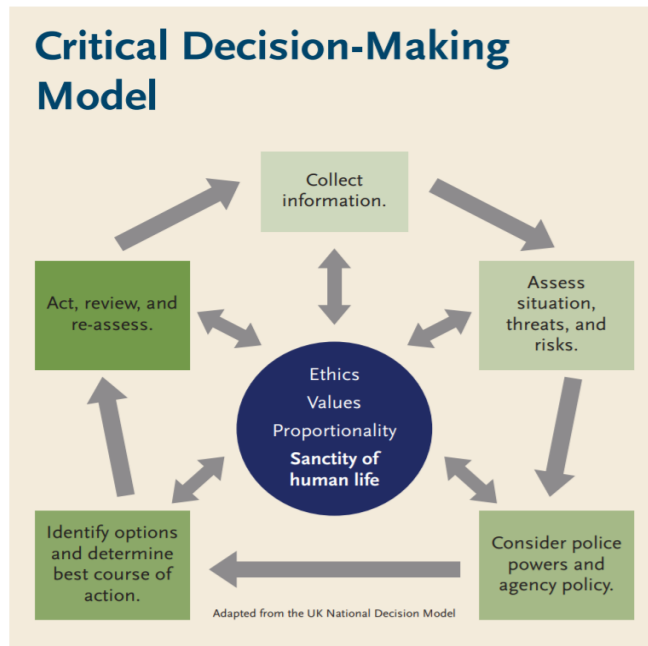
²⁷ For more information on the CDM, see the “Rethinking Use-of-Force Policies, Practices, and Tactics” section.

- **In-custody Death:** The death of any individual while in the custody and care of the VCSO that occurs for any reason.
- **Less-Lethal Force:** Force options applied at a level to gain/regain control of a subject including the use of less-lethal weapons not fundamentally designed to cause death or great bodily harm.
- **Objectively Reasonable Belief:** A fourth amendment standard whereby a Deputy's belief that they must protect themselves or others from imminent death or serious bodily injury is compared and weighed against what a reasonable or rational Deputy would have believed under similar circumstances. This determination is made by reviewing all relevant facts and circumstances of each particular case, including but not limited to 1) the severity of the crime at issue, 2) whether the suspect poses an immediate threat to the safety of the Deputy or others, and 3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
- **Probable Cause:** Facts and circumstances which would support an objectively reasonable belief that the Deputy must protect themselves and/or others from imminent death or serious bodily injury.
- **Subject Resistance:** An act of defiance by an individual opposing a Deputy's lawful commands.

PERF recommends that several additional definitions of key concepts be added to VCSO's policy:

Recommendation: *VCSO should add the definition of “Critical Decision-Making Model (CDM)” to this section. This definition should state: “The CDM is a five-step critical thinking process. The five steps are built around the core values of the department and the policing profession. The CDM guides deputies through a process of collecting information; assessing the situation, threats, and risks; considering police powers and agency policy; identify options and determining the best course of action; and acting, reviewing and reassessing the situation.”²⁸ PERF recommends that VCSO should place the CDM diagram immediately follow this definition in its revised use-of-force policy.*

²⁸ See PERF, *Guiding Principles on Use of Force*, pp. 41, 80-85.
<http://www.policeforum.org/assets/guidingprinciples1.pdf>



Recommendation: VCSO should add the definition of “**Electronic Control Weapon**” to this section. The definition should state: “A weapon designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and override the subject’s voluntary motor responses.”²⁹

Recommendation: VCSO should add the definition of “**Emergency Restraint Chair**” to this section. The definition should state: “A mobile chair containing shoulder, wrist, lap, and ankle restraints that is used to humanely restrain individuals who demonstrate combative, self-destructive, or potentially violent behavior that creates a substantial risk of physical harm to themselves or others.

Recommendation: VCSO should add the definition of “**Oleoresin Capsicum Spray**” to this section. The definition should be similar to that use by the Seattle Police Department, which states: “Oleoresin Capsicum (OC) spray is an inflammatory agent that causes an intense burning sensation of the skin, eyes, and mucous membranes.”³⁰

Recommendation: VCSO should add the definition of “**Impact Weapons**” to this section. The definition should state: “Any object, including an expandable baton or defensive weapon of opportunity (e.g., flashlight, radio, etc.) that is used to strike a subject in a manner that is reasonably likely to cause injury.”³¹

²⁹ Police Executive Research Forum and COPS Office (2011). *2011 Electronic Control Weapons Guidelines*, p. 8. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

³⁰ Seattle Police Department (2015). “Seattle Police Department Manual, 8.300 (‘Use of Force Tools’). <https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-tools>

³¹ Ibid, Baltimore Police Department (2016). “Policy 1111 (‘Batons/Impact Weapons’).” <https://www.powerdms.com/public/BALTIMOREEMD/documents/51034>

Recommendation: *VCSO should add the definition of “Proportionality” to this section. The definition should state: “Proportionality involves directing deputies to do the following: (1) use only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) consider, if appropriate, alternate force options that are less likely to result in injury but will allow deputies to achieve lawful objectives; and (3) consider the appropriateness of the deputy’s actions. Deputies should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Whether a use of force is proportional also depends on the nature and severity of the underlying events.”*³²

Recommendation: *VCSO should add the definition of “Specialty Impact Munitions” to this section. The definition should state: “A less-lethal round discharged from a dedicated shotgun that is designed to temporarily disrupt a subject’s behavior.”*³³

Recommendation: *VCSO should add the definition of “Totality of the Circumstances” to this section. The definition should state: “The totality of circumstances are the facts and information known to the deputy at the time, or reasonably perceived by the deputy, and serve as the basis for the deputy’s decision to use force.”*

Current Draft Directive 1.1 Section: Procedure

The “Procedure” section of VCSO’s draft of Directive 1.1 (“Use-of-Force Guidelines”) includes the following language from Florida State Statute §776.05³⁴: “law enforcement officers...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest.” VCSO’s policy should reiterate that deputies may reposition themselves, or in low-level criminal matters, may leave the scene if doing so may end a crisis and the matter can be resolved through other means or by returning at a later time.

Recommendation: *VCSO should add the following language to its use-of-force policy: “Even though deputies do not have a duty to retreat or desist from making an arrest, deputies should nonetheless assess the situation; consider the seriousness of the underlying offense, if any; consider options for de-escalation; develop back-up plans; and bring in additional resources, if necessary. In minor, low-stakes encounters, disengagement or tactical repositioning may be preferable.” This language should stress that protecting the safety of deputies and citizens is the most important factor for consideration. Additionally, VCSO should train deputies to develop back-up plans to use*

³² See PERF, *Guiding Principles on Use of Force*, pp. 38-40.

<http://www.policeforum.org/assets/guidingprinciples1.pdf>

³³ Seattle Police Department (2015). “Seattle Police Department Manual, 8.300 (‘Use of Force Tools’).

<https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-tools>

³⁴ FS §776.05 is the state statute which mandates that law enforcement officers may use force when the officer reasonably believes it is necessary to defend himself or herself or another person from bodily harm, when it is necessary to retake felons who have escaped, and when arresting a fleeing felon who the officer reasonably believes poses a threat of death or physical harm to the officer or others, or the officer reasonably believes the fleeing felon has committed a crime that resulted in the threat of or infliction of serious physical harm.

in the event that de-escalation or less-lethal options fail. VCSO should advise deputies that they should not automatically resort to lethal force if initial de-escalation or less-lethal options are not successful. Instead, deputies should be taught to tactically reposition and consider additional de-escalation techniques or another less-lethal option.

Current Draft Directive 1.1 Section: Deadly Force

The “Deadly Force” section of VCSO’s draft of Directive 1.1 (“Use-of-Force Guidelines”) identifies when lethal force may be necessary and when it is prohibited. This section also includes the following language regarding VCSO’s policy on shooting at vehicles: “Deputies shall not discharge their firearms **AT** a vehicle unless a person in the vehicle is immediately threatening the deputy or another person with deadly force: (A) A moving vehicle alone shall not presumptively constitute a threat that justifies a deputy’s use of deadly force...” This policy requires deputies in the path of an oncoming vehicle to move to a position of safety if possible, rather than firing at a vehicle. Deputies are also prohibited from moving into the path of an approaching vehicle. The reasoning for these prohibitions are explained in this section.

As written, PERF believes the section is generally sound, though some of the wording could be simplified.

PERF recommends making the following changes to this section:

Recommendation: *VCSO should simplify the language used and revise this section to state: “Shooting at or from a moving vehicle is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself.”*

Additionally, PERF recognizes the recent trend of using motor vehicles as a weapon of mass destruction. This has been observed both internationally and within the United States.³⁵ PERF understands that this type of threat may require an extraordinary response to stop the threat and protect life. If this type of event were to occur within Volusia County, any use of force, particularly lethal force, must be evaluated based on the totality of the circumstances and the necessary, reasonable, and proportional use of force.

Current Directive 1.1 Section: Deputy Involved Shooting – Procedure: Supervisor Responsibilities

This section of VCSO’s draft of Directive 1.1 (“Use-of-Force Guidelines”) does not include any language requiring supervisors to respond to the scene of critical incident prior to the use of force. **Requiring supervisors to respond to critical incidents is a progressive policing practice.** Many law enforcement agencies have found that dispatching a supervisor to the scene

³⁵ In July 2016, a cargo truck was rammed into a crowd in Nice, France. This attack resulted in the deaths of 86 people and 458 others were injured. In the United States, a vehicle was used to attack a crowd in Charlottesville, VA in August 2017. One person was killed, and 19 others were injured. In October 2017, a vehicle was rammed through a crowded bike lane in New York City. Eight people were killed, and 12 others were injured.

of a critical incident can reduce the likelihood that lethal force will be used. There is often a short period of time between when an officer is dispatched to a scene and when force is used, so supervisory response should be prompt. Some law enforcement agencies have trained their dispatchers to go on the radio and specifically ask patrol supervisors if they are en route to certain high-risk calls.

Recommendation: *VCSO should add the following language regarding supervisor responsibility: “Unless there are extenuating circumstances, a supervisor will immediately respond to any scene where a weapon (including a firearm, edged weapon, rocks, or other improvised weapon) is reported; where a person experiencing a mental health crisis or similar condition and the potential for violence is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force.”*

Current Directive 1.1 Section: Internal Affairs Unit Administrative Investigation

The “Internal Affairs Unit Administrative Investigation” section of VCSO’s draft of Directive 1.1 (“Use-of-Force Guidelines”) includes the following language regarding the investigation of lethal force incidents: “The deputy involved shall be the subject of an *Administrative Investigation* and shall be served in a timely manner. The *Administrative Investigation* will be held during the course of the criminal investigation by FDLE and review by the State Attorney’s Office and/or Grand Jury findings.” However, the next sentence states: “The *Administrative Investigation* will begin upon completion of the FDLE criminal investigation and review/finding by the State Attorney’s Office.”

As written, VCSO’s policy is not clear about whether the administrative investigation follows FDLE’s investigation of lethal force incidents, or if the investigations are concurrent. PERF believes that the administrative and criminal investigations should be conducted simultaneously when feasible. Waiting for the completion of a criminal investigation can unnecessarily delay the department in discharging an employee in cases where an administrative investigation clearly would show that the employee violated departmental rules seriously enough to justify dismissal.

Many other departments recognize that with the proper protocols in place, administrative and criminal investigations can be conducted concurrently. This permits the department to complete the administrative process and, if termination is recommended, to act on the recommendation promptly. The criminal investigation and court process, including appeals, typically takes much longer and can continue long after the administrative outcome is final.

Recommendation: *VCSO should, examine adding language to policy that would address these issues where the policy violation is so clear that it would require immediate dismissal.*

IA administrative investigations should focus on the actions that preceded the incident, in addition to the incident itself. Internal Affairs investigators should review the incident for tactical concerns, policy violations, and training-related issues. Investigators should brief the

sheriff as soon as feasible (preferably, between 48-72 hours following an incident) regarding any observed issues (e.g., equipment problems, policy matter, etc.) that may need immediate attention. This is current practice of VSSO and is noted as a progressive practice.

Current Draft Directive 1.1 Section: Administrative Review: Response to Resistance Reports

The “Administrative Review: Response to Resistance Reports” section of VCSO’s draft of Directive 1.1 (“Use-of Force Guidelines”) includes the following language: “Any restraining force or physical force resulting in either injury or a complaint of injury (whether visible or not) requires a Response to Resistance report and Administrative Review through the chain of command.” During this review, PERF found that reporting requirements are located in various areas of the policies reviewed. VCSO has since consolidated all reporting requirements in Directive 1.1 Use of Force.

PERF recommends making the following changes to this section:

Recommendation: *VCSO should revise its requirements for documenting response to resistance. The revised policy should require reporting when:*

- 1. A firearm was unintentionally discharged.*
- 2. Any employee takes an action that results in or is alleged to have resulted in any injury or death of another person.*
- 3. Any employee applies force through the use of a lethal weapon, a less-lethal weapon, a weapon of opportunity, or personal weapons (e.g., punches, elbow strikes, knee strikes, kicks).*
- 4. An agency canine bites or inflicts injury to an individual.*

Pointing a Firearm or ECW as a Threat of Force

In addition, this section does not include any language requiring the documentation of incidents in which a firearm or Electronic Control Weapon (ECW) is pointed at an individual as a threat of force. PERF believes that policy can be strengthened by requiring the documentation of instances where the *threat* of force was made by a deputy (e.g., pointing a firearm or ECW).

Pointing a firearm at a subject to gain compliance is a threat of lethal force, and holding deputies accountable for the threat of lethal force by documenting and reviewing the incident should be standard practice. Documenting these incidents will improve the identification of the threats and conditions where deputies feel the need to use a firearm or an ECW as a threat of force, and allow for the identification of deputies who may be improperly resorting to a firearm or ECW.

Recommendation: *VCSO should include the following language in this section of the use-of-force policy: “The pointing of a firearm or an Electronic Control Weapon (ECW) at an individual as a threat of force will be documented in incidents reports, but does not require the completion of a response to resistance report.”*

Recommendations for Sections Contained in Draft Directive 1.3. (“Use of Less Lethal Weapons and Devices”)

Directive 1.3 (“Use of Less Lethal Weapons and Devices”) governs the use of less-lethal weapons and tools. As previously discussed, PERF recommends that this policy should be incorporated into Directive 1.1 (“Use-of-Force Guidelines”). The analysis and recommendations below apply to the various sections of the current draft of Directive 1.3. This directive contained sections identified below:

- Violent subject restraints (restraint devices)
- Dog repellent OC spray
- Aerosol spray (OC spray/FREEZE +P spray)
- Taser
- K-9
- Impact weapons (baton and “defensive tools of convenience”), and
- Specialty impact munitions (beanbag round).

The sections below identify areas where the language and practices that govern the use of these devices can be improved. Recommendations and supporting information for each section are provided where appropriate.

Current Draft Directive 1.3 Section: Procedure

The “Procedure” section of Directive 1.3 (“Use of Less Lethal Weapons and Devices”) contains the following language: “As a general rule, Less-Lethal Weapons and Devices are not considered justified response to: A. Passive resistance, unless exigent circumstances exist, or the person has known violent tendencies.”

This language should be strengthened to prohibit the use of any less-lethal weapon on subjects displaying passive resistance. Less-lethal force options should only be used at the level of active resistance.

Recommendation: *VCSO should include language similar to that used in Chapter 1.3 (“Use of Force”) of the New Orleans Police Department’s (NOPD) Operation Manual, which was crafted as the result of a consent decree with the United States Department of Justice. NOPD’s policy included the following language: “Officers shall not use force to overcome passive resistance, except that physically moving a subject is permitted when it is necessary and objectively reasonable.”³⁶*

³⁶ New Orleans Police Department Operations Manual Chapter 1.3, Use of Force
<https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-1-3-Use-of-Force.pdf> Page 11.

Current Draft Directive 1.3 Section: Taser

The “Taser” section of VCSO’s draft of Directive 1.3 (“Use of Less Lethal Weapons and Devices”) outlines the agency’s policy on Electronic Control Weapons (ECW). PERF’s review identified several opportunities for strengthening VCSO’s ECW policy. The recommendations included in this section are largely based on the report *2011 Electronic Control Weapon Guidelines*, which was released by PERF and the Department of Justice’s Office of Community Oriented Policing Services (COPS Office) in 2011.³⁷ That publication provides a set of guidelines for ECWs that address policies, training, use, medical considerations, reporting and accountability, and public information and community relations.

The PERF/COPS Office guidelines were cited in a 2016 decision by the U.S. Court of Appeals for the Fourth Circuit, in a case where the court found that “[i]mmediately tasing a non-criminal, mentally ill individual, who seconds before had been conversational, was not objectively reasonable.”³⁸ In response to the *Pinehurst* decision, several agencies in jurisdictions within the Fourth Circuit amended their use-of-force and ECW policies to reflect the ruling and the PERF/COPS Office guidelines. For example, the Hendersonville, NC Police Department changed its policy to restrict the use of ECWs to individuals who pose an immediate threat to an officer.³⁹ The Baltimore City Police Department updated its policy to only allow the use of ECWs against an individual displaying aggravated or aggressive resistance.⁴⁰

PERF’s review found that VCSO’s ECW policies are largely aligned with the progressive practices outlined in the 2011 PERF/COPS Office guidelines. During interviews with VCSO personnel, PERF learned that deputies are *trained* in accordance with the practices described in the PERF/COPS Office guidelines. VCSO should improve its policies to accurately reflect the best practices in how its deputies are being trained. The recommendations below are intended to address the few areas of VCSO’s ECW policy that could be strengthened.

ECW Terminology

Currently, VCSO refers to an ECW as a “Conducted Energy Device” or by the brand name, TASER. The PERF/COPS Office guidelines recommend a change in terminology from “Conducted Energy Device” and other similar terms to “Electronic Control Weapon.” This change is recommended in order to “reflect the reality that these tools are less-lethal weapons

³⁷ Police Executive Research Forum and COPS Office (2011). *2011 Electronic Control Weapons Guidelines*. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf.

³⁸ *Armstrong v. the Village of Pinehurst*, No. 15-1191. January 11, 2016. <http://www.ca4.uscourts.gov/Opinions/Published/151191.P.pdf>.

³⁹ Margulis, Abigail (2016). *Law Enforcement Advised to Change Taser Policies*. January 23. <http://www.blueridgenow.com/news/20160123/law-enforcement-advised-to-change-taser-policies>

⁴⁰ Donovan, Doug and Mark Puente (2016). *Police Officers Could Be Sued Over Unconstitutional Taser Use, Courts Find*. March 26. <http://www.baltimoresun.com/news/maryland/investigations/bs-md-taser-project-legal-20160326-story.html>

that are meant to help control persons who are actively resisting authority or acting aggressively.”⁴¹

Recommendation: *VCSO should revise its policy to replace all references to “Conducted Energy Device” or “TASER” with the more descriptive and appropriate term, “Electronic Control Weapon (ECW).” This change will help clarify that ECWs are in fact weapons that carry a risk of harming persons, including fatal injuries in some cases. The change should be made throughout VCSO’s policy manual and in all other orders, directives, and training curricula which reference such devices.*

Mandatory ECW Exposure in Training

The language included in this section requires that deputies who completes the department’s “Taser Certification Training Program” to be the recipient of an ECW discharge. The PERF/COPS Office guidelines recommend that agencies should not require an ECW application to be mandatory for certification, because exposure to ECW application could result in an injury to personnel.⁴²

Recommendation: *VCSO should prohibit the use of ECWs on deputies during training. Presently, VCSO allows deputies to volunteer to be subjected to an ECW discharge. Deputies may feel pressure to experience an ECW deployment because of the traditional “warrior” culture that has been pervasive in many agencies, including VCSO. Therefore, it would be best for VCSO to remove the policy language requiring deputies to be subjected to an ECW discharge as part of the agency’s certification process, and no longer give deputies the option to experience an ECW deployment.*

Deployment Cycles

The language in this section includes the following: “The Taser is programmed to give a 5-second cycle...,” but this section does not include language regarding how *many* deployment cycles should be applied.

Recommendation: *VCSO should add the following language to its ECW guidelines: “Deputies should use an ECW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Deputies should consider that exposure to an ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase risk of death or serious injury. Any subsequent applications should be independently justifiable, and the risks should be weighed against other force options.”⁴³*

⁴¹ Police Executive Research Forum and COPS Office (2011). *2011 Electronic Control Weapons Guidelines*, p. 8. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

⁴² Ibid, p. 18.

⁴³ Ibid, p. 20.

Deployment of Multiple ECWs

VCSO's current ECW policy does not indicate if there are any limitations on how many ECWs can be used against a subject.

Recommendation: *VCSO's policy should include the following language: "Deputies are not to intentionally deploy more than one ECW at a time against a subject."*

Drive Stun

The language currently used in this section outlines use of the contact (drive) stun mode of the ECW. Policy currently authorizes deputies to use this mode "as a secondary, backup method in situations where multiple subjects exist, or a restrained suspect continues to actively resist by damaging property and other attempts to subdue have failed."

Recommendation: *VCSO should remove the language allowing for the use of drive stun mode and replace it with language that prohibits the use of the drive stun mode as a pain compliance technique. The drive stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between deputies and the subject, so that deputies can consider another force option.*

Fleeing Suspect and Hazardous Positions

VCSO's current ECW policy states the following regarding fleeing subjects: "If the suspect runs, the Deputy must run also to prevent the probe wires from breaking." This is the only reference to a fleeing subject in VCSO's policy. The current language in this section does not explicitly state that fleeing should not be the sole justification for deploying an ECW.

Recommendation: *VCSO should include the following language to clarify its position on using an ECW against a fleeing subject: "Fleeing should not be the sole justification for using an ECW against a subject. Personnel should consider the severity of the offense, the subject's threat level to others, and the risk of serious injury to the subject before deciding to use an ECW on a fleeing subject."*

This section also contains language that advises deputies to avoid using an ECW on slanted rooftops or on the edge of tall buildings. VCSO should strengthen this policy with a more general prohibition against deploying an ECW where the subject is in an elevated position where a fall may cause substantial injury or death.

Recommendation: *VCSO should modify this section to state: "ECWs should not be used when a subject is in an elevated position where a fall may cause substantial injury or death."*

Limitations on ECW Deployment

During this review, PERF found VCSO's current ECW policy does not include language regarding the use of an ECW against pregnant women, elderly persons, young children, visibly frail persons, handcuffed subjects, or subjects in physical control of a vehicle in motion.

Recommendation: *VCSO should add the following language: "The use of ECWs against pregnant women, elderly persons, young children, and visibly frail persons is prohibited. Personnel should evaluate whether the use of the ECW is reasonable, based upon all circumstances, including the subject's age and physical condition."*

Recommendation: *VCSO should include the following statement: "ECWs should not be used on handcuffed subjects unless doing so is necessary to prevent them from causing serious bodily harm to themselves or others and lesser attempts of control have been ineffective."*

Recommendation: *The following language should be included in VCSO's ECW policy: "The use of ECWs against subjects in physical control of a vehicle in motion (e.g., automobiles, trucks, motorcycles, ATVs, bicycles, scooters) is prohibited."*

VCSO's current ECW policy does not indicate whether deputies are allowed to use ECWs against aggressive animals.

Recommendation: *VCSO leaders should determine if the agency will permit or prohibit the use of ECWs against aggressive animals. This decision should be included in policy so deputies will know what options are available to them in a situation with an aggressive animal.*

VCSO's ECW policy contains the following language regarding areas of the body that should not be targeted: "**Never** aim the Taser at the eyes or face." Elsewhere in this section, deputies are advised to aim the ECW at the center mass of the subject if the subject is wearing heavy and/or loose clothing. The policy does not contain any further language regarding areas of the body that should or should not be targeted with an ECW. **PERF believes VCSO can strengthen its policy by include precise language regarding what areas of the body deputies should or should not target with an ECW. Guidelines from the leading manufacturer of ECWs warn of the possibility of cardiac arrest and other life-threatening injuries if ECWs are targeted at the chest area.**⁴⁴

Recommendation: *VCSO's policy should state the following: "Intentionally targeting of other sensitive areas (e.g., head, neck, genitalia) with the ECW is prohibited."*

Recommendation: *VCSO should also include policy language that states that deputies should not target the chest area (specifically, the area near the heart) with an ECW.*

⁴⁴ Axon Enterprises, Inc. (2017). "TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement." Page 2. https://prismic-io.s3.amazonaws.com/axon%2F509df1ca-d020-4d24-9e08-68320ff1985f_law+enforcement+warnings.pdf

Medical Considerations

VCSO's current ECW policy does not include language regarding the risk for subjects under the influence of drugs following an ECW application.

Recommendation: *VCSO's policy should state that deputies should be aware that there is a higher risk of sudden death when an ECW is used against subjects under the influence of drugs and/or exhibiting symptoms associated with excited delirium.*

Additional ECW Recommendations

In addition to the changes to current section language outlined above, VCSO should consider the following recommendations regarding ECWs:

Recommendation: *If not current practice, VCSO should require deputies to keep ECWs in a weak-side holster and should train to perform a weak-hand draw or cross-draw to reduce the possibility of accidentally drawing and/or firing a sidearm when the ECW is intended. Transitioning the ECW to the strong hand after drawing with the weak hand should be allowed. This should also be reflected in policy.*

Recommendation: *If not current practice, VCSO should consider adopting brightly colored ECWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the ECW for a firearm. Specialized units such as SWAT may prefer dark-colored ECWs for tactical concealment purposes.*

SECTION II. REVIEW OF DEPUTY-INVOLVED SHOOTING CASE FILES

This section of the Volusia County Sheriff's Office (VCSO) study details the review of deputy-involved shooting (DIS) case files maintained by VCSO's Major Case Unit. This section includes an analysis of the data and recommendations for improvements.

Many of the recommendations in this section reflect PERF's *Guiding Principles on Use of Force* and *ICAT (Integrating Communications, Assessment, and Tactics) Training Guide* discussed elsewhere in this report.

Definitions

Below are definitions of some key terms as used throughout this section of the report:

- ***Deputy-Involved Shooting (DIS):*** A DIS is an incident in which a deputy shoots a firearm at a subject. DIS cases encompass *all* shooting incidents, regardless of whether the subject is killed, injured, or struck by the bullet or other projectile discharged from the firearm (e.g., a BB, slug, pellet).
- ***Subject:*** An individual, other than a deputy, who was fired upon or a direct target of police action during the DIS incident.
- ***Contact Shooting:*** A DIS incident in which either a subject **or** deputy is struck with any projectile.
- ***Non-Contact Shooting:*** An OIS incident in which neither a subject nor deputy is struck with any projectile.
- ***Projectile:*** The bullet or other type of ammunition that is discharged from a deputy's firearm. Examples of projectiles other than bullets include a BB, slug, pellet, etc.

Deputy-Involved Shooting Cases Reviewed by PERF

PERF's agreement with VCSO was to review three years' worth of VCSO's DIS case files. However, because only one DIS incident occurred in 2014, VCSO leaders determined it would be best to provide PERF with more case files. In addition to the DIS case files from 2014, 2015, and 2016, PERF was also provided with the case files of the 2017 DIS incidents that occurred prior to June 15.

Thus, PERF was able to conduct a detailed review of case files for the 15 deputy-involved shootings that occurred between January 1, 2014 and June 15, 2017.⁴⁵ For each of these cases,

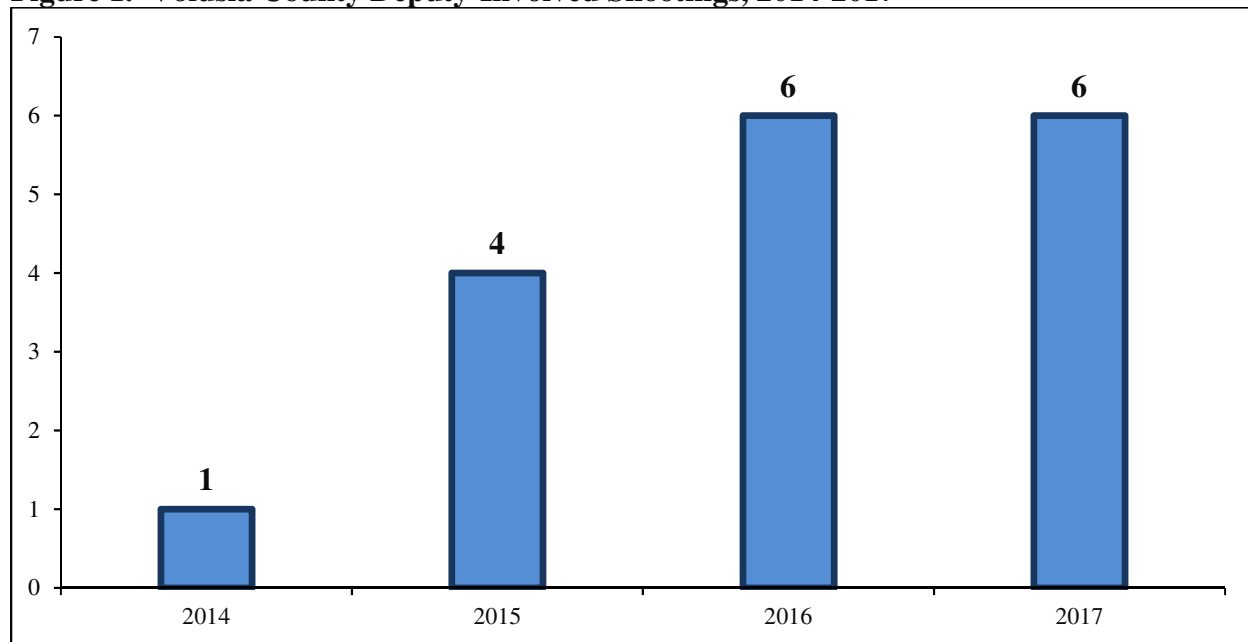
⁴⁵ Two contact DIS incidents (i.e., the subject was struck with a projectile, such as a bullet) occurred after PERF started its review VCSO's DIS case files. These incidents are included in Figure 1, which only provides the frequency of deputy-involved shootings by year. PERF did not have the case files associated with these incidents, therefore, they are not included elsewhere in the report.

PERF compiled and analyzed data from the case files that helped shed light on the nature of the case, as well the subjects and deputies involved.

PERF began reviewing cases in mid-June 2017, so cases that occurred after June 15, 2017 were not part of this review.

Figure 1 below shows a breakdown of how many DIS cases occurred each year, ranging from a low of one case in 2014 to a high of six cases in 2016 and 2017. Because PERF only analyzed DIS cases from January 2014 to June 2017, not enough data were available to establish a trend in VCSO's DIS incidents.

Figure 1. Volusia County Deputy-Involved Shootings, 2014-2017*



*At the time PERF received the case files, four deputy-involved shootings had occurred in 2017. Two additional shootings involving Volusia County Sheriff's deputies that occurred after PERF began reviewing the case files. These two deputy-involved shootings were included in the chart above to display the total number of shootings for the year. However, PERF did not analyze the case files associated with these two shootings, as the case files were not available when PERF began this review.

Case File Organization and Thoroughness

PERF's review of the DIS case files included assessing whether the files were well-organized, included the appropriate documentation, and reflected thorough investigative practices.

PERF found that, overall, VCSO's DIS case files contained a thorough accounting of the incident. For example, all of the files contained the Computer-Aided Dispatch (CAD) transcripts and VCSO incident, narrative, and property reports. The case files for contact shootings included the Florida Department of Law Enforcement (FDLE) investigative review, as the FDLE investigates VCSO DIS incidents in which a subject is struck by a projectile, such as a bullet (i.e., contact shootings). Case files that included an FDLE investigative review also included a

disposition from the State Attorney's Office (SAO).⁴⁶ Case files for fatal DIS incidents (i.e., the subject died as a result of being struck by a projectile) included autopsy and toxicology reports. Most of the case files included the VCSO internal investigation report, and forms from VCSO's Use of Force Review Board.

Even though the case files provided by VCSO provided much of the information necessary for PERF's analysis, the organization of the information was not necessarily standardized across the case files. In order to expedite the review and analysis of the DIS and other use-of-force case files, VCSO should consider standardizing the organization of its use-of-force case files.

Recommendation: *VCSO's case files should be uniformly organized. Each case file should contain a table of contents that explains the information contained in the file and where the information can be found within the file. The table of contents would also serve as a checklist to ensure that all the correct information is in the case file. There should also be a brief narrative at the beginning of the case file that explains the case (e.g., subject details, deputy details, details of the incident, and the outcome of applicable investigations).*

Case Investigation and Outcomes

This section discusses the process for investigating DIS cases at VCSO, the investigative outcomes, and the timeliness of the investigations.

Process for Investigating DIS Incidents

According to VCSO Directive 1.1 ("Use of Deadly Force"), the Florida Department of Law Enforcement (FDLE) investigates all VCSO DIS incidents that result in serious bodily harm or death to a person.⁴⁷ Of the 15 cases reviewed by PERF, 11 cases (73.3%) were contact shootings investigated by FDLE.

The Major Case Unit of VCSO's Investigative Services Section investigates all DIS incidents that do not result in serious bodily injury or death. Four of the 15 cases reviewed by PERF were non-contact shootings investigated by the VCSO Major Case Unit.

FDLE Investigation: Pursuant to VCSO Directive 1.1 ("Use of Deadly Force"), FDLE investigates all use of lethal force incidents that result in serious bodily harm or death. When a DIS incident occurs, VCSO Internal Affairs contacts the FDLE Critical Incident Team. FDLE then deploys an investigation team to the shooting location. Once FDLE completes its investigation, the findings are submitted to the State Attorney's Office and the VCSO.

For the 15 cases reviewed by PERF, 11 were investigated by FDLE. In the cases reviewed by PERF, the average time for FDLE to complete its investigation into VCSO DIS incidents was 4.5 months.

⁴⁶ The disposition indicates if the SAO will pursue criminal charges against the deputy.

⁴⁷ FDLE also investigates VCSO in-custody deaths.

Criminal Investigation Review: Once an FDLE investigation is complete, the State Attorney's Office (SAO) reviews FDLE's findings and determines if there was any illegal activity on the part of the deputy involved in the shooting. Of VCSO's 15 DIS case files that PERF reviewed, one case was sent to a grand jury. The deputy was not indicted.

In the cases reviewed by PERF, the average time needed by the SAO to make its determination regarding criminal charges was two months.

Administrative Review: Once the SAO's criminal review is complete, VCSO finalizes an administrative review to determine whether the deputy involved in the shooting committed a policy or procedural violation. Contact shootings require a formal closeout memorandum from the State Attorney's Office before VCSO reviews the case administratively. Once a formal closeout memorandum is received, VCSO Internal Affairs presents the facts of the case to the VCSO Use-of-Force Review Board. The Use-of-Force Review Board is comprised of the Sheriff, Chief Deputy, two Division Commanders, the District Captain, legal advisors, and the Internal Affairs Supervisor. The Use-of-Force Review Board renders a disposition regarding whether the shooting involved deputy misconduct or any other policy or procedural violation.

The form used by the Use-of-Force Review Board contains the following language: "It shall be the policy of the Department to use only the degree of force that is necessary to perform official duties. The use of deadly force is authorized when there is reasonable belief that such force is necessary to: A) Prevent imminent death or great bodily harm to the Deputy, B) Prevent imminent death or great bodily harm to another human being, C) Apprehend the perpetrator of a felony which involves the use or threatened use of deadly force and the individual who is sought poses an immediate threat to the life and or safety of the Deputy or another human being(s), and where feasible, a warning is given." Members of the Use of Force Review Board select the option(s) they believe demonstrates the reason the deputy used lethal force during an incident, or they may select or not select the option: "The use of Deadly Force was not in compliance with departmental policy."

Completed Use-of-Force Review Board forms were included in eight of the 15 DIS case files reviewed by PERF; however, the number of forms included in each case file varied. Some case files included as few as three forms, while other case files included as many as 12 forms. PERF located 73 total forms in the 15 case files reviewed.

PERF's review of the Use-of-Force Review Board forms included in the case files found that "Prevent imminent death or great bodily harm to the Deputy" as the reason for the use of force selected on 66% of the ballots. The second most frequently selected option(s) were "Prevent imminent death or great bodily harm to the Deputy" **and** "Prevent imminent death or great bodily harm to another human being."⁴⁸ On 11% of the forms, "Prevent imminent death or great bodily harm to another human being" was selected.

⁴⁸ Use-of-Force Review Board members selected both "Prevent imminent death or great bodily harm to the Deputy" and "Prevent imminent death or great bodily harm to another human being" on 12% of the forms.

VCSO Administrative Case Dispositions: VCSO completes the Criminal Justice Standards and Training Center (CJSTC) Form 78 upon completion of an Internal Affairs investigation. Form CJSTC-78 is known as the “Internal Investigation Report” form, and the Florida Department of Law enforcement indicates that the form should be completed upon completion of an internal investigation.⁴⁹ The form contains the following five categories for agency disposition:

- **Sustained – Violation of Section 943.13(4) or (7) or Rule 11B-27.0011, F.A.C.:**⁵⁰ These citations refer to Florida laws governing officers’ conduct, ethics, moral behavior, and integrity.
- **Sustained – Violation of Agency Policy:** This indicates a violation of agency rules and/or regulations.
- **Not Sustained:** Insufficient evidence available to prove or disprove the allegation.
- **Unfounded:** This indicates that the allegations are false or not supported by facts.
- **Exonerated:** This indicates that the internal investigation determined that the alleged actions occurred but were lawful and proper.

PERF reviewed the dispositions of VCSO’s 12 closed DIS cases. **A case is considered closed when both the criminal *and* administrative investigations are complete.** Of these 12 closed cases, 11 were ruled as exonerated by VCSO. The remaining case was ruled as sustained – violation of agency policy; that case involved a non-contact shooting. In other words, of the DIS cases PERF reviewed, the only instances in which VCSO found that the deputy committed misconduct was when the deputy discharged his or her firearm, but no subjects were struck.

Policy and Training Implications: It is important for the administrative reviews conducted by VCSO to not focus solely on assessing whether the deputy’s actions rose to the level of misconduct, but instead to also examine whether there was a better way for the deputy to have responded to the incident that might have reduced the likelihood that lethal force would be needed. Even if a deputy’s actions do not rise to the level of misconduct, it may be the case that the incident could have been avoided with better policies or training. Such a review is critical to effective risk mitigation and thorough complaint investigation. Thorough administrative reviews can identify areas where policy and training can be improved to help prevent similar situations from occurring in the future. National progressive practices established by many law enforcement agencies across the country emphasize the importance of reviewing not only tactical considerations, but also issues related to policies and procedures, training, and supervision. As part of this “after action” assessment, it is important to look at every aspect of what occurred before, during, and immediately after a critical incident to determine whether changes to policy, training, or procedures are needed in order to improve the agency’s response to these incidents.

Recommendation: *When investigating use-of-force incidents, VCSO’s Use-of-Force Review Board should focus not only on whether the deputy’s actions or supervisor’s*

⁴⁹ “Instruction for Completing Form CJSTC-78.” Florida Department of Law Enforcement.

<https://www.fdle.state.fl.us/CJSTC/Documents/Rules-Forms/CJSTC-078-6-9-08.aspx>

⁵⁰ Section 943.13 (4) or (7) and Rule 11B-27.0011, F.A.C. pertain to the proper conduct, ethics, moral behavior, and integrity of law enforcement officers commissioned in the State of Florida.

<https://www.flsenate.gov/Laws/Statutes/2011/943.13>, <https://www.flrules.org/gateway/ruleno.asp?id=11B-27.0011>

response were legal, but should also consider whether there was a better way for the deputy to have responded to the incident that might have reduced the risk of injury to all involved. This type of review is critical to strengthening deputies' performance and can be beneficial to deputies, the agency, and the community as a whole. The findings from this review, including any policy and training guidelines used to evaluate the incident, should be shared with the deputy's chain of command in order to strengthen performance. Findings should also be incorporated into training so that all deputies are provided with an opportunity to learn from the incident. However, they should not be considered when determining case disposition.

Recommendation: *In the "Additional Recommendations" section of this report, PERF suggests that VCSO should create a critical incident review panel. If VCSO leaders decide to create this panel, a form should be made for use by this panel when determining if any equipment or training issues arose during the critical incident under review. The form should have space for the panel to identify the issues, if any, that were discovered during the review.*

Timeliness of Case Investigations

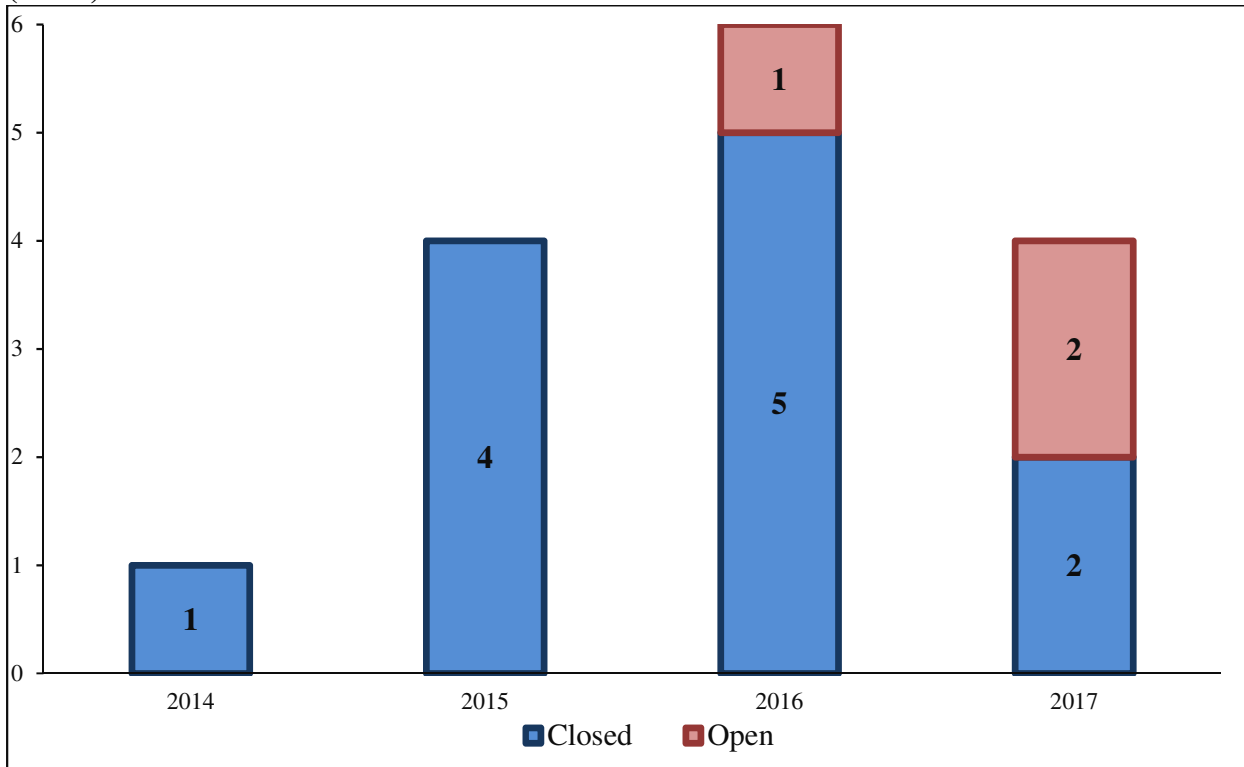
Conducting timely investigations of DIS cases is critical. For the community, prompt investigations show that the department is committed to transparency. For deputies, timely investigations allow the incident to be resolved without undue delay.

In order to gauge the timeliness of the DIS investigations, PERF examined the amount of time that occurred between the time of the DIS incident and the time of case closure. **A DIS case was considered closed when both the criminal *and* administrative investigations are complete.**

Both the criminal and administrative investigations were closed for 12 of the 15 DIS cases that PERF reviewed. **The average time to closure is 6.9 months.** At the time of PERF's data review, two cases from 2017 and one case from 2016 remained open. Based on PERF's experience conducting similar reviews, this closure time is not unreasonable.

Figure 2 below shows the number of closed and open DIS cases from 2014-2017.

Figure 2. Number of Closed and Open Deputy-Involved Shooting Cases, 2014-2017 (N=15)*

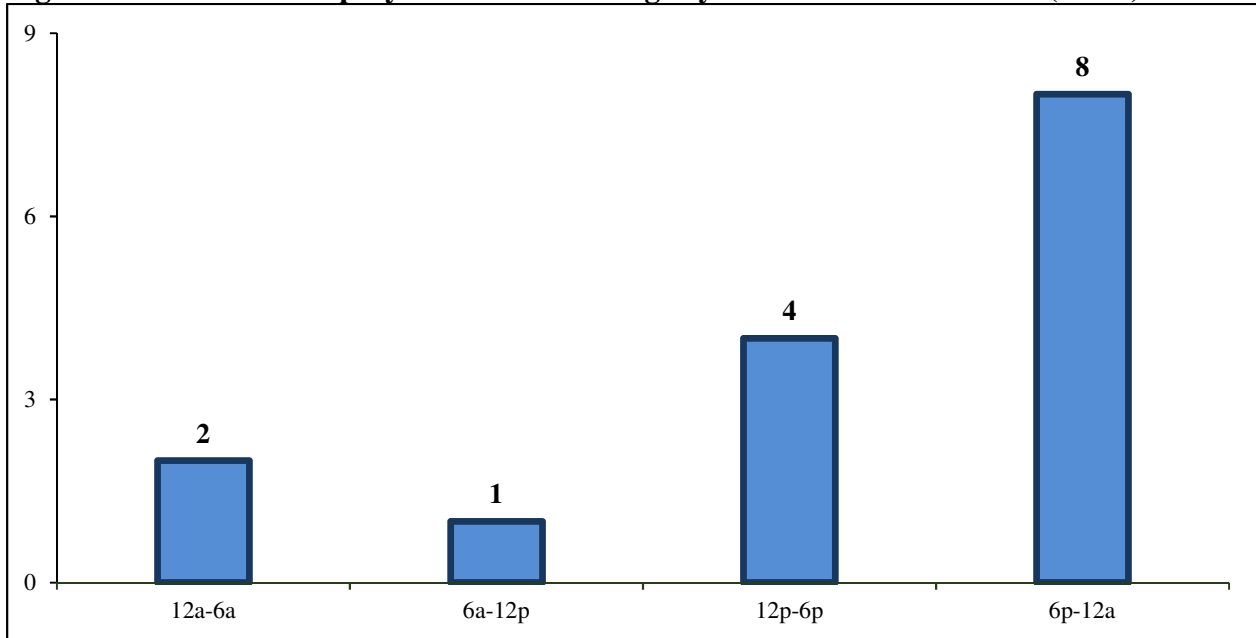


*The number of cases closed and open as of April 15, 2017.

Deputy-Involved Shooting by Time of Day and Location of Shooting

PERF found that VCSO's deputy-involved shootings (DIS) most often occur in the six-hour period between 6 p.m. and 12 a.m. As Figure 3 below indicates, eight of the 15 DIS cases occurred during this period.

Figure 3. Number of Deputy-Involved Shootings by Six-Hour Time Periods (N=15)



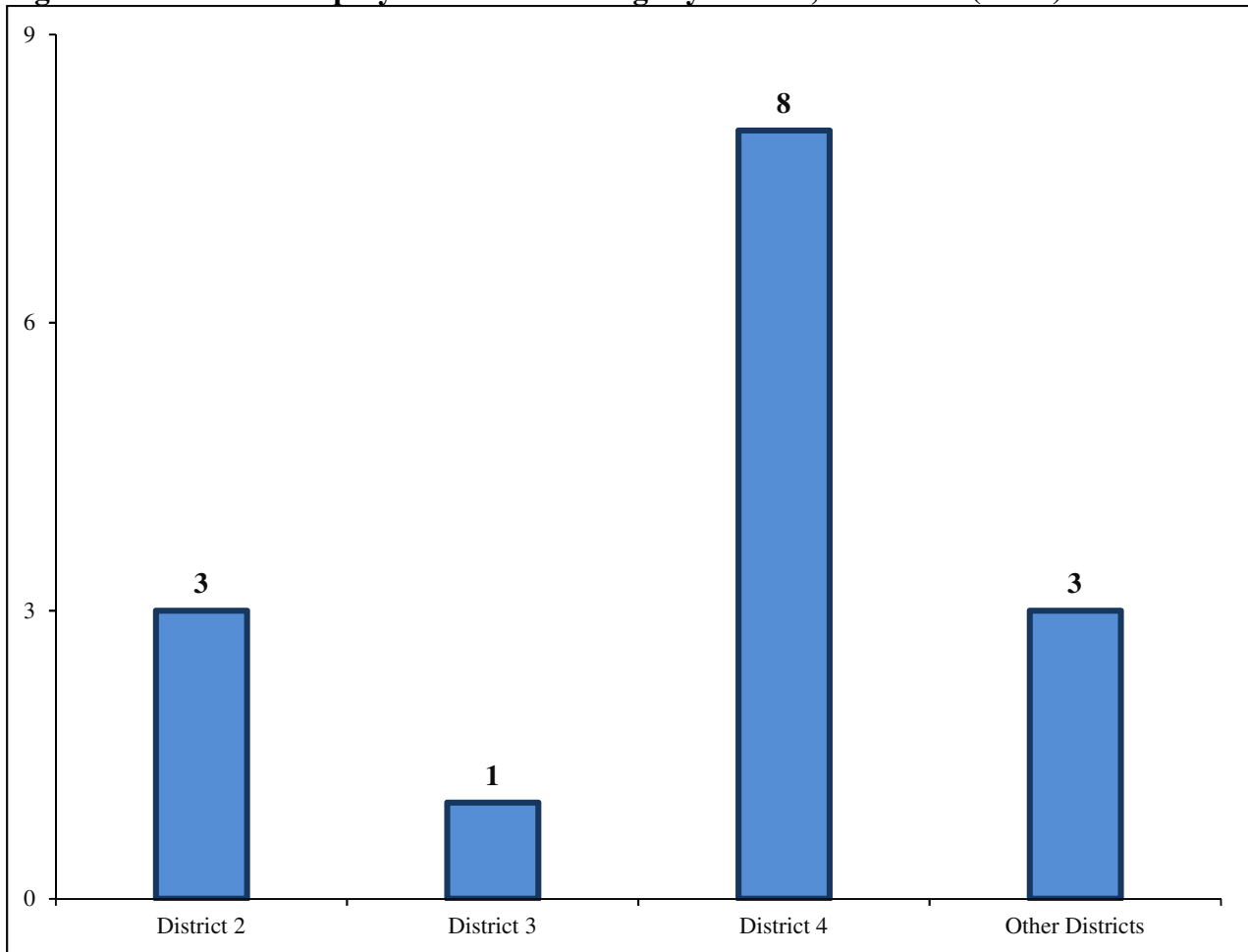
Recommendation: Supervisors assigned to evening shifts should be aware that this is the time when DIS incidents are more likely to occur, and they should monitor all calls for service and be dispatched to any calls involving a critical incident (e.g., when a subject appears to be experiencing a mental health crisis). The Los Angeles Police Department recently implemented a policy requiring dispatchers to automatically dispatch a field supervisor to the scene of certain types of incidents, including calls involving edged weapons or reports of persons with mental illness.

VCSO action taken: The VCSO Training Section has created a training bulletin to address this issue.

PERF also examined the locations where each DIS case occurred. VCSO serves four patrol districts. Figure 4 below shows the number of deputy-involved shooting (DIS) cases by VCSO district. Over half of the DIS cases took place in the District 4, followed by District 2 (20%).⁵¹

⁵¹ The districts included in the “Other” category were labeled as “DBE,” “OC,” and “DL” in the case file.

Figure 4. Number of Deputy-Involved Shootings by District, 2014-2017 (N=15)



Recommendation: *Supervisors in District Four should be made aware of this finding, and VCSO leaders should discuss ways to ensure that supervisors assigned to each district can respond to high-risk situations (such as encounters with persons in mental health crisis) so they can bring additional resources and help slow down the situation.*

Deputy-Involved Shooting Case Characteristics

VCSO's case files provided information that allowed PERF to examine a wide range of case characteristics. These characteristics included:

- The reason for initial deputy contact;
- the assignment of the involved deputy;
- time between deputy dispatched and arrival at the scene of the incident;
- time between deputy's arrival at the scene and the shooting incident;
- whether the shooting resulted in contact (subject being struck with a bullet or any other projectile, such as a BB, slug, or pellet);
- the type of weapon carried by the subject;

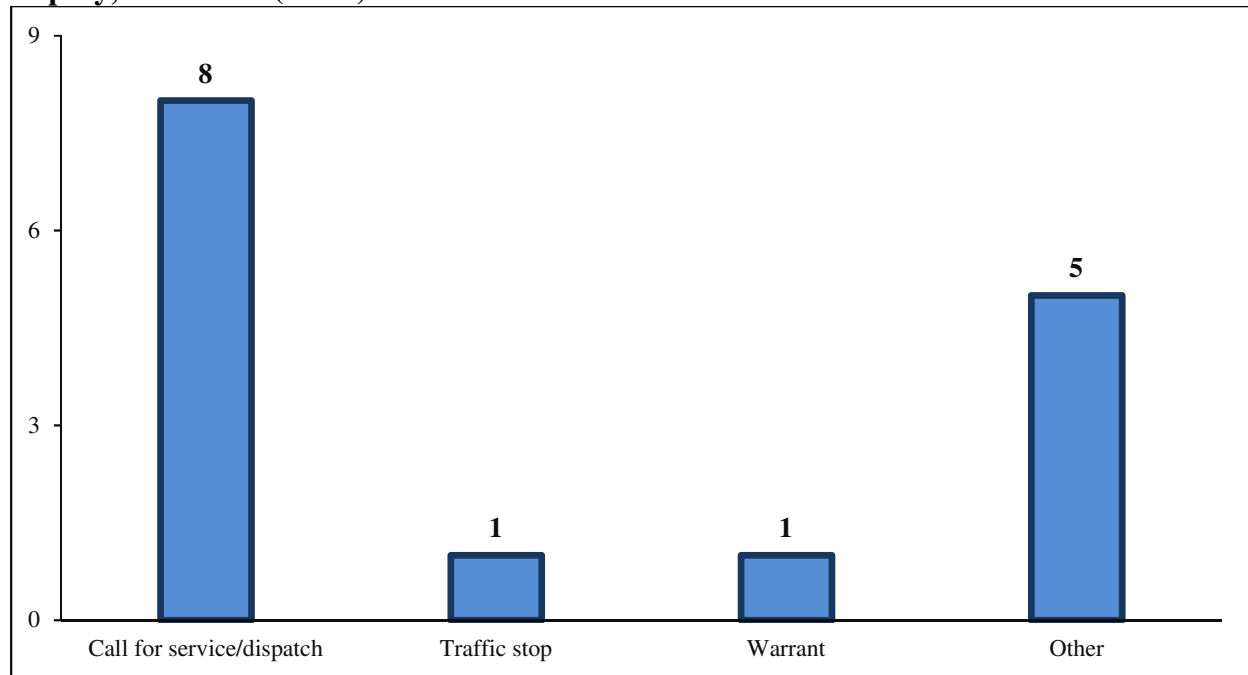
- the use of force or threat of force by the subject;
- whether the case involved a subject fatality;
- whether there was evidence that the interaction involved a person who was experiencing a mental health crisis or was chemically impaired (i.e., under the influence of drugs or alcohol);
- whether there was a supervisor at the scene during the shooting; and
- the number of subjects and deputies involved in the incident.

This section discusses PERF’s findings regarding each of these case characteristics and provides recommendations for how VCISO can use these findings to strengthen its use-of-force policies, training, and tactics.

Reason for Initial Deputy Contact

Figure 5 shows VCISO’s DIS cases broken down by the reason for initial contact by deputies. Of the 15 DIS cases that PERF examined, eight began as a call for service.

Figure 5. Number of Deputy-Involved Shooting Cases by Reason for Initial Contact by Deputy, 2014-2017 (N=15)



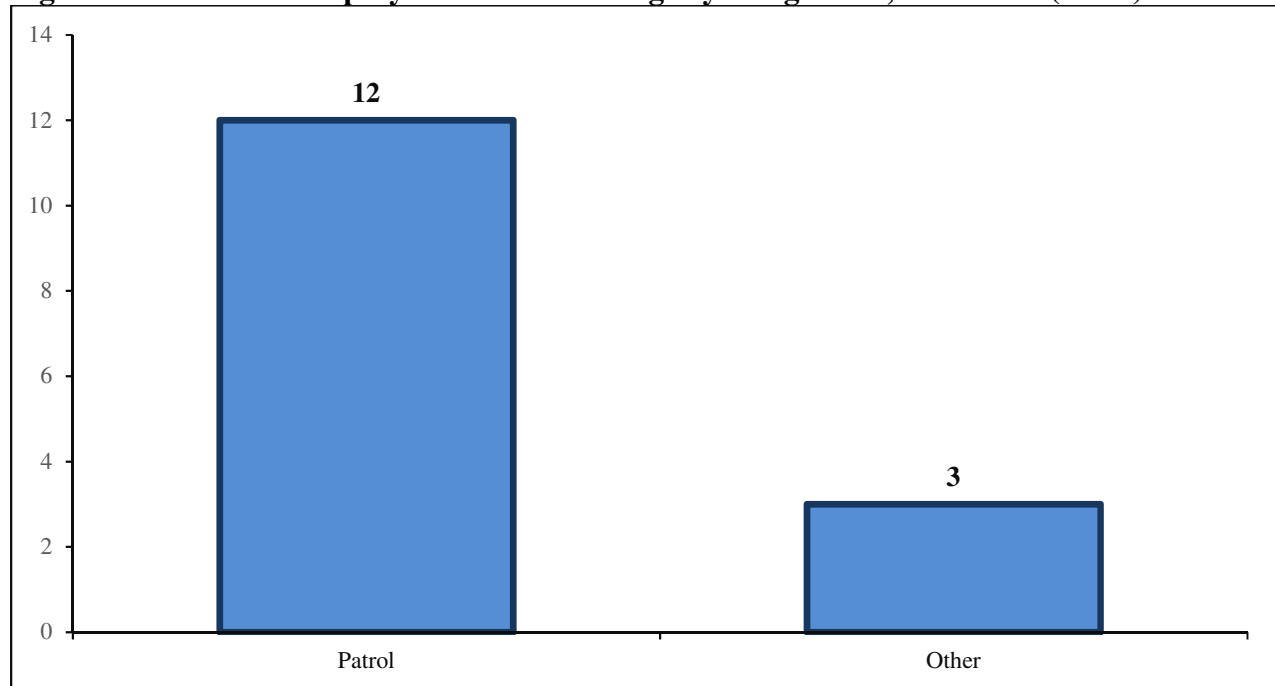
Of the eight DIS cases that began with a call for service, three cases requested a response to a suicidal person or a person experiencing a mental health crisis. Another three cases pertained to domestic incidents. Two calls for service involved other types of incidents.⁵²

⁵² One call for service was regarding a “suspicious person,” and the other pertained to a civil matter regarding taxi fare.

Assignment of Involved Deputy

Figure 6 shows VCSO's DIS cases broken down by the deputy's assignment. Twelve of the 15 DIS incidents involved at least one deputy who was assigned to patrol. Because patrol officers typically interact with the public at a higher rate than officers in specialized units, this finding is not surprising. Units categorized as "Other" (i.e., Canine Deputies, Narcotics Enforcement, etc.) were also more involved in DIS incidents, accounting for three of the cases occurring between 2014 and 2017. This is not an unexpected finding, as units such as Narcotics Enforcement are often engaged in high-risk situations with criminal offenders (e.g., police entry into a private home, undercover operations, etc.).

Figure 6. Number of Deputy-Involved Shootings by Assignment, 2014-2017 (N=15)



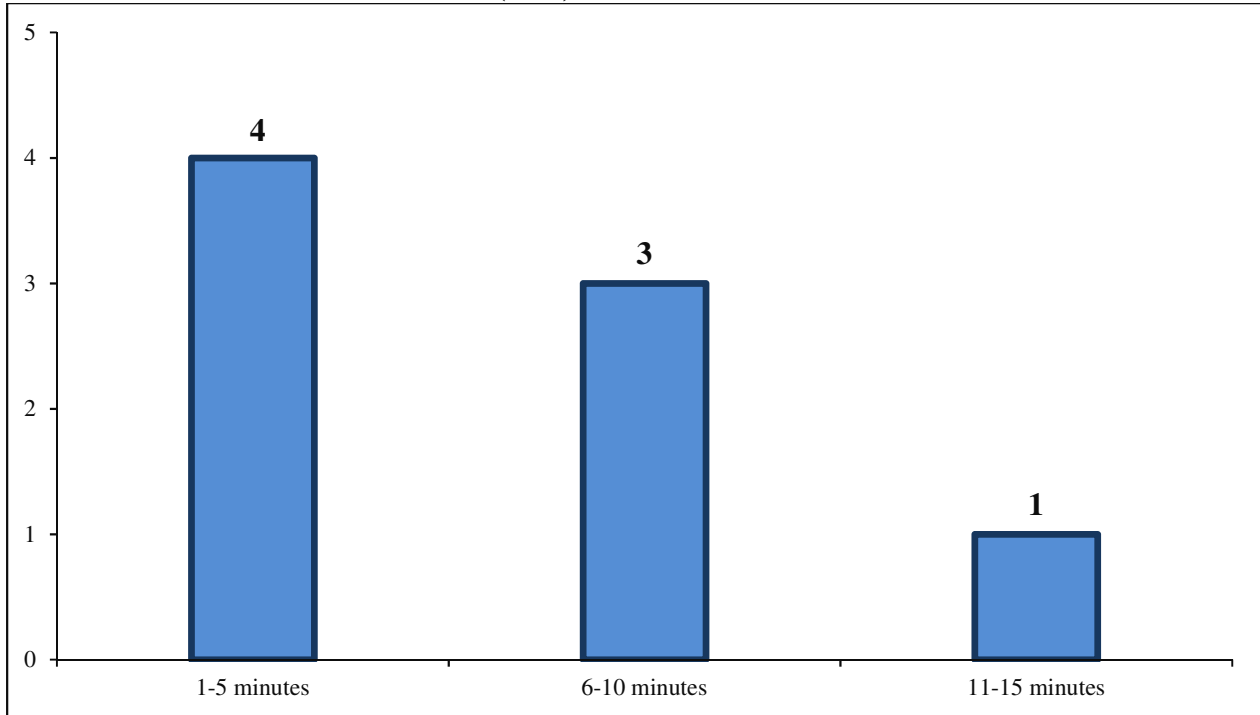
Recommendation: *Because 80% of VCSO's DIS incidents involved patrol deputies, VCSO should continue to focus on increasing the options and tools that are available to its first-responding deputies. Specifically, VCSO should continue providing patrol deputies with enhanced training on identifying people in crisis, "slowing down" situations to gain additional time, waiting for back-up, and the use of less-lethal tools. (See the "Guiding Principles on Use of Force" and "ICAT Training Guide" sections in this report for more information on how these training principles can improve VCSO's response to critical incidents.) In addition, de-escalation techniques should be practiced through scenario-based training.*

Deputy Response Time

In eight of the case files reviewed by PERF, deputies were dispatched to the scene of the incident. The average time it took deputies to arrive at the scene after being dispatched was 5.5

minutes. As shown in Figure 7 below, deputies arrived on scene between one and five minutes in four of the cases.

Figure 7. Number of Deputy-Involved Shootings, by Time Between Deputy Dispatch and Arrival at the Scene of the Incident (N=8)*



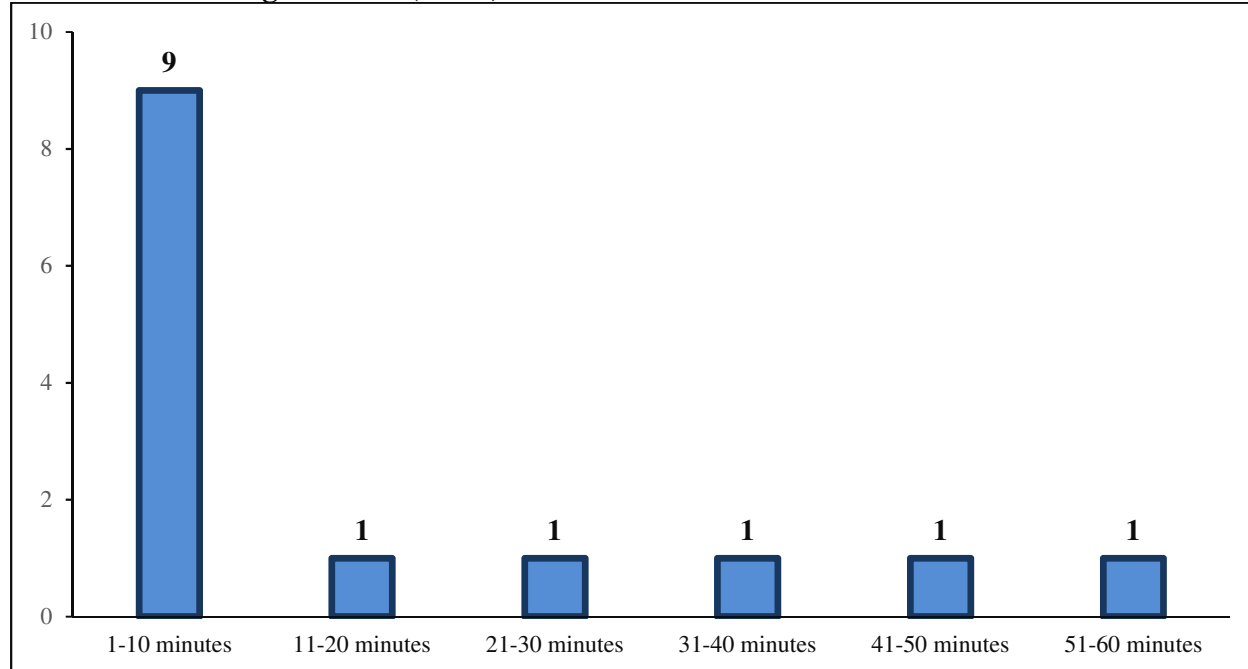
*Incidents in which deputies *were not* dispatched to the scene (i.e., deputies proactively initiated contact with the subject) were not included in this analysis.

Time Between Deputies' Arrival at the Scene and Shooting

PERF's analysis of 14 of VSCO's DIS incidents revealed that most shootings occurred soon after a deputy arrived at the scene.⁵³ As showing in Figure 8, nine of the 14 DIS incidents occurred within one to 10 minutes of deputies arriving at the scene.

⁵³ In one incident, the deputy was already at the scene for an unrelated matter. The case was excluded from the analysis.

Figure 8. Number of Deputy-Involved Shootings, by Time Between Deputy Arrival at the Scene and Shooting Incident (N=14)



At PERF’s 2016 meeting on use of force, former San Diego Police Chief William Lansdowne noted that there is typically about a 15-minute window of time from when a call comes in regarding a critical incident, and when first shots are fired. “If you have a system set up within your organization that gets a supervisor to the scene early on, within the 15-minute window, your chance of having an officer-involved shooting – getting someone hurt, your officer or the person – is reduced by about 80% because they can manage the situation as a team,” Chief Lansdowne said.⁵⁴

The finding that most of VCSO’s DIS incidents occurred within one to 10 minutes after deputies arrived on scene highlights the importance of a supervisor immediately responding to the scene of critical incidents.

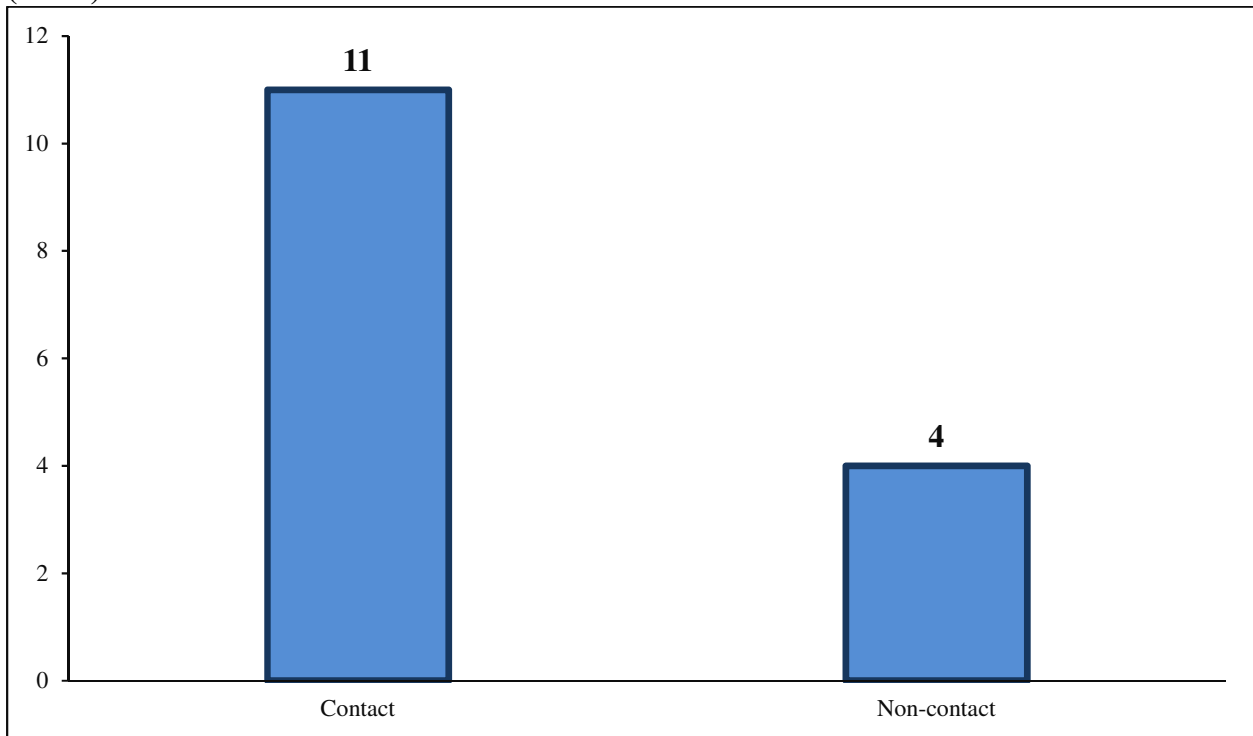
Recommendation: *VCSO should add a requirement that supervisors must immediately respond to any scene where a weapon (including firearm, edged weapon, rocks, or other improvised weapons) is reported; where persons experiencing a mental health crisis are reported; or where a dispatcher or other member of the department believes there is potential for significant use of force.*

⁵⁴ Police Executive Research Forum (2016). *Guiding Principles on Use of Force*. p. 63. <http://www.policeforum.org/assets/guidingprinciples1.pdf>

Contact Shootings

A contact shooting is defined as a police incident where a subject is struck with a bullet or other projectile (e.g., a BB, pellet, etc.). As shown in Figure 9 below, 11 of the 15 DIS cases analyzed by PERF were contact shootings.

Figure 9. Number of Deputy-Involved Shootings by Contact (Subject Struck), 2014-2017 (N=15)



It is important to note that VCSO treats all contact and non-contact shootings as serious in nature. While FDLE does *not* investigate VCSO's non-contact shootings, VCSO ensures that they are thoroughly investigated by its Major Case Unit. Presenting non-contact shooting investigations to the State Attorney's Office (SAO) would further strengthen VCSO's policy and practice. For purposes of policy and review, it is the deputy's *intent* to shoot that matters; not his or her marksmanship. Having the SAO review all non-contact shootings will serve to increase deputy accountability regarding use of using lethal force, regardless of whether the subject was hit.

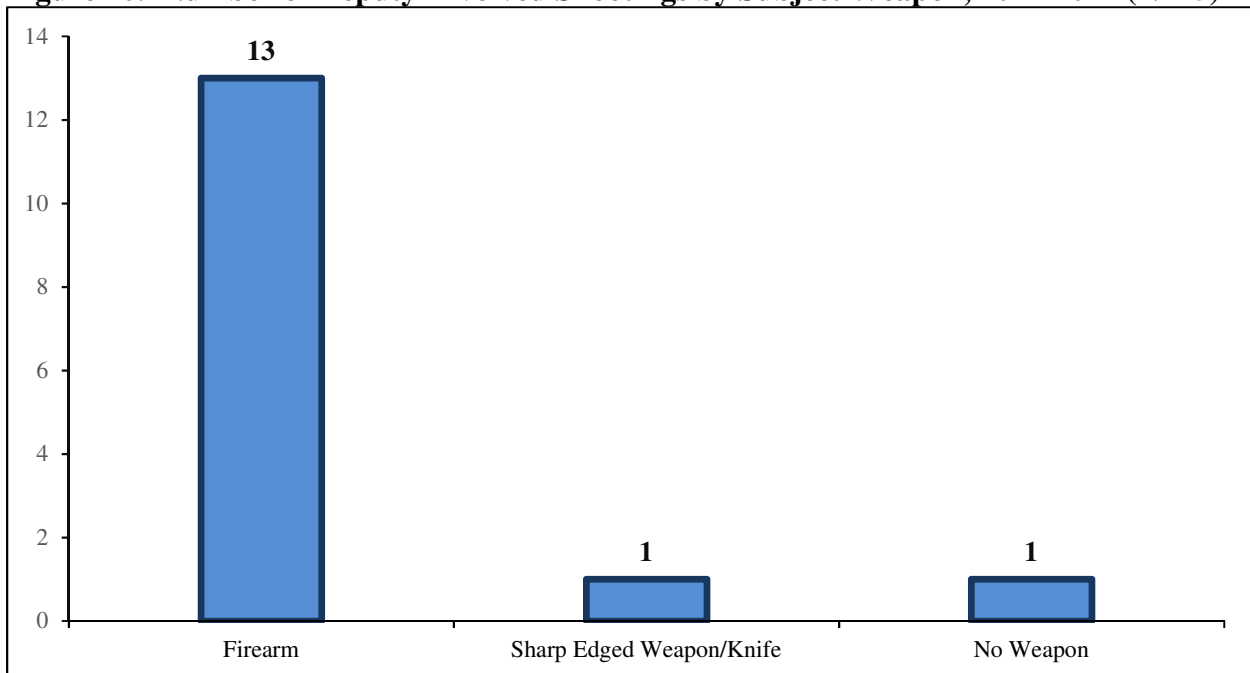
Recommendation: *VCSO should brief the State Attorney's Office (SAO) on its investigative findings on non-contact shooting cases. The SAO should review non-contact shooting cases and determine whether there was criminal responsibility. VCSO should request the SAO's findings in writing in the same manner it does when a subject is struck during a DIS.*

Subject Weapon

As Figure 10 demonstrates, 13 of VCSO's 15 DIS cases involved a subject with a firearm. One case involved a sharp-edged weapon, and in one case the subject was not armed.

The threat of a firearm limits the options that are available to deputies, as opposed to incidents in which a subject is unarmed or is armed with another type of weapon (e.g., edged weapon, baseball bat, etc.) or no weapon at all. Recommendations for addressing non-firearm are located throughout this report.

Figure 10. Number of Deputy-Involved Shootings by Subject Weapon, 2014-2017 (N=15)



Subject Threat of Force

In all 15 DIS cases reviewed, PERF was able to clearly identify a perceived use of force or threat of force by the subject. In three of the 15 cases, investigative files noted a sudden movement by a subject, including attempting to gain possession of a firearm, assuming a stance where the subject appeared to be pointing a firearm, or lunging at deputies with a knife clasped in their hands like a firearm.⁵⁵

In VCSO's case files, the subject's actions ranged from moving abruptly, approaching deputies while pointing a firearm or other weapon, and discharging a firearm at a deputy. PERF was able to discern that in the 13 DIS cases involving a firearm, the subject was in actual possession of the

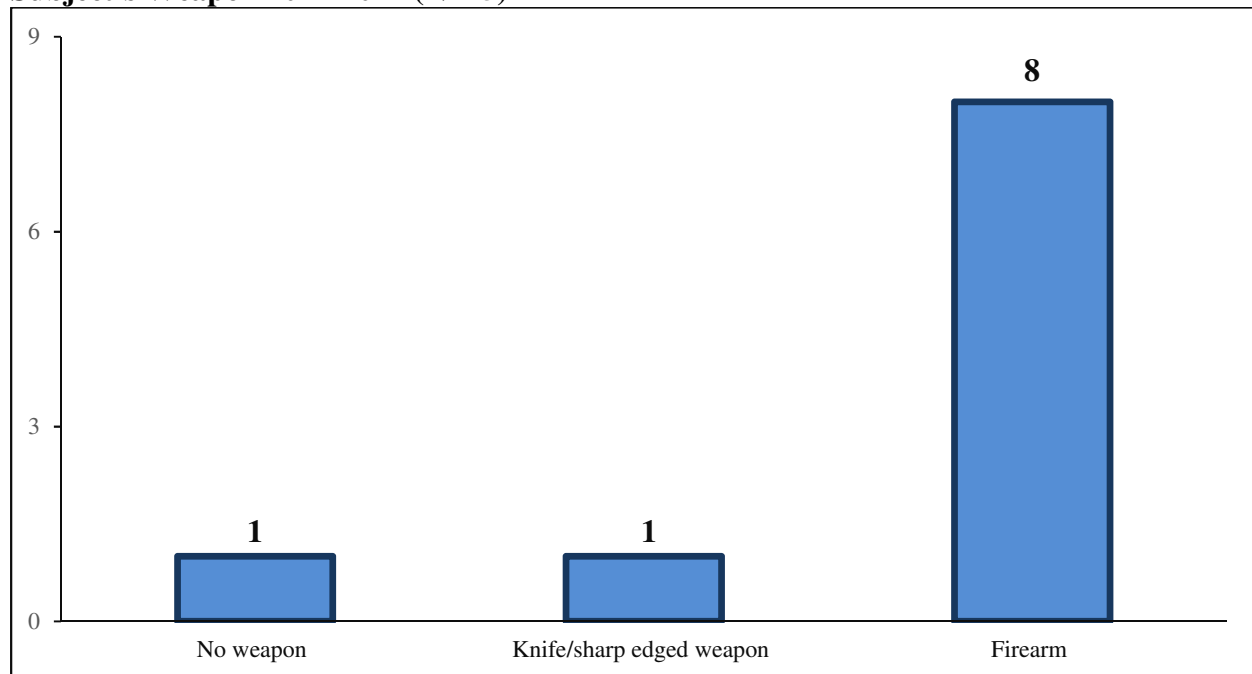
⁵⁵ In the case where the subject lunged at deputies with a knife clasped like a firearm, it was reported to deputies that the subject had robbed people at gunpoint prior to the DIS incident.

firearm in 12 cases.⁵⁶ In seven of the 12 cases involving a subject in actual possession of a firearm, the subject discharged the firearm towards a deputy. A subject discharging a firearm at a deputy is an immediate threat to the deputy and to any other people in the area. It is imperative that deputies immediately address that threat to ensure their own safety as well as the safety of others.

Subject Fatalities

Of the 15 DIS cases PERF reviewed, 10 cases resulted in a subject fatality. Figure 11 shows the number of DIS cases resulting in a subject fatality, broken down by the type of weapon possessed by the subject involved in the incident.

Figure 11. Number of Deputy-Involved Shootings Resulting in Subject Fatality, by Subject's Weapon 2014-2017 (N=15)



Mental Health Crisis and Chemical Impairment

PERF examined VCSO's case files for indications that the subject involved in the DIS was experiencing a mental health crisis at the time of the incident or was acting under chemical impairment (e.g., under the influence of drugs or alcohol).

Each variable (mental health crisis or chemical impairment) was coded as being either a yes, no, or maybe. The "yes" determinations were made conservatively (i.e., only when reviewers had

⁵⁶ In the one case where the subject was not holding a firearm, a firearm was in reach of the subject. The subject attempted to gain possession of the firearm, but was not in actual possession of the firearm when the DIS occurred.

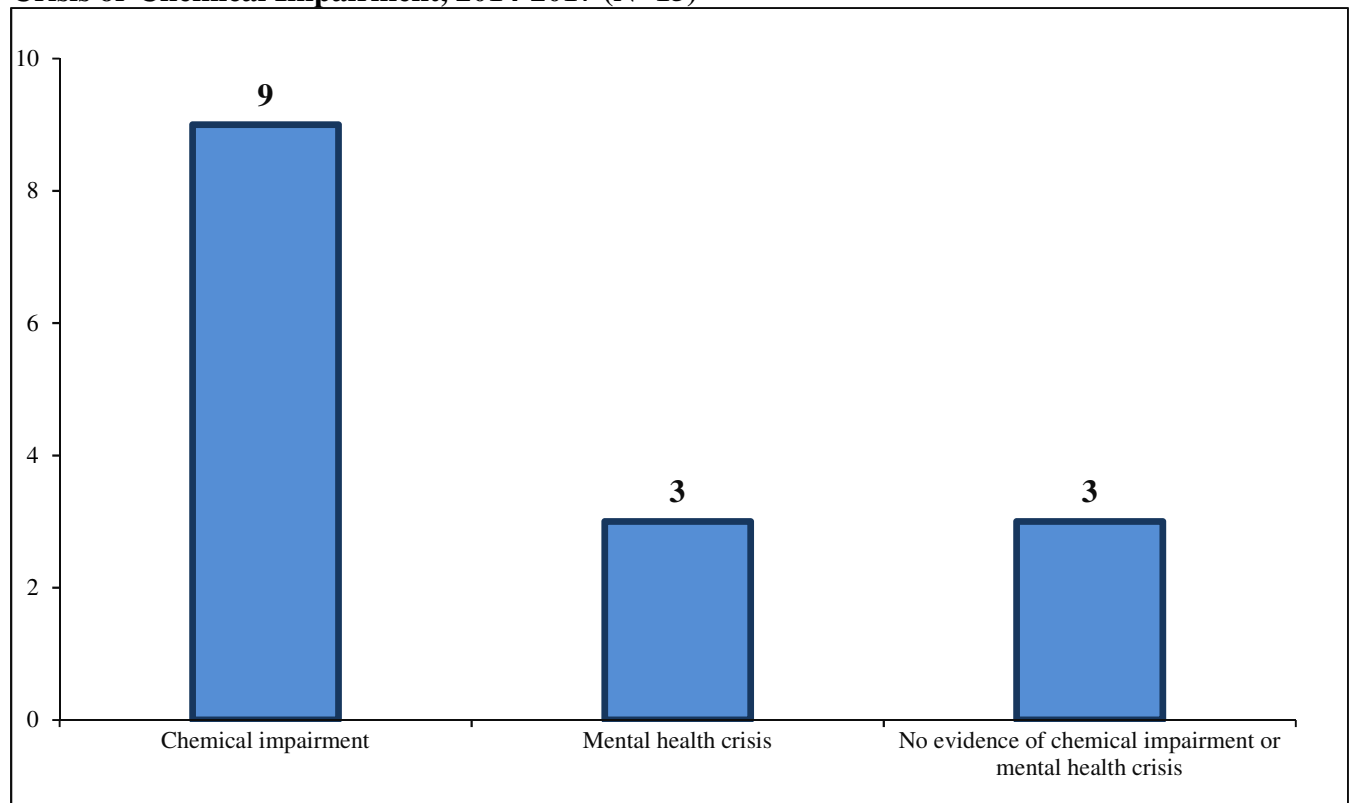
clear qualitative evidence or a toxicology report). The “maybe” determinations were made when incidents had some evidence consistent with the variable in question.

PERF found that a large percentage of DIS cases involved a subject who may have been in mental health crisis or chemically impaired. These figures include both “maybe” and “yes” determinations.

As Figure 12 shows, three of the 15 DIS cases potentially involved a subject with a mental health crisis, and nine of the DIS cases potentially involved subject impairment.

Recommendation: *VCSO should ensure that deputies, especially those assigned to patrol, receive training on crisis identification and response (see “PERF’s Integrating Communications, Assessment, and Tactics Training Guide” section of this report). Crisis identification and response training should be part of VCSO’s in-service training. Scenario-based exercises should be used to assist deputies in crisis identification and communication skills.*

Figure 12. Number of Deputy-Involved Shootings Involving a Potential Mental Health Crisis or Chemical Impairment, 2014-2017 (N=15)

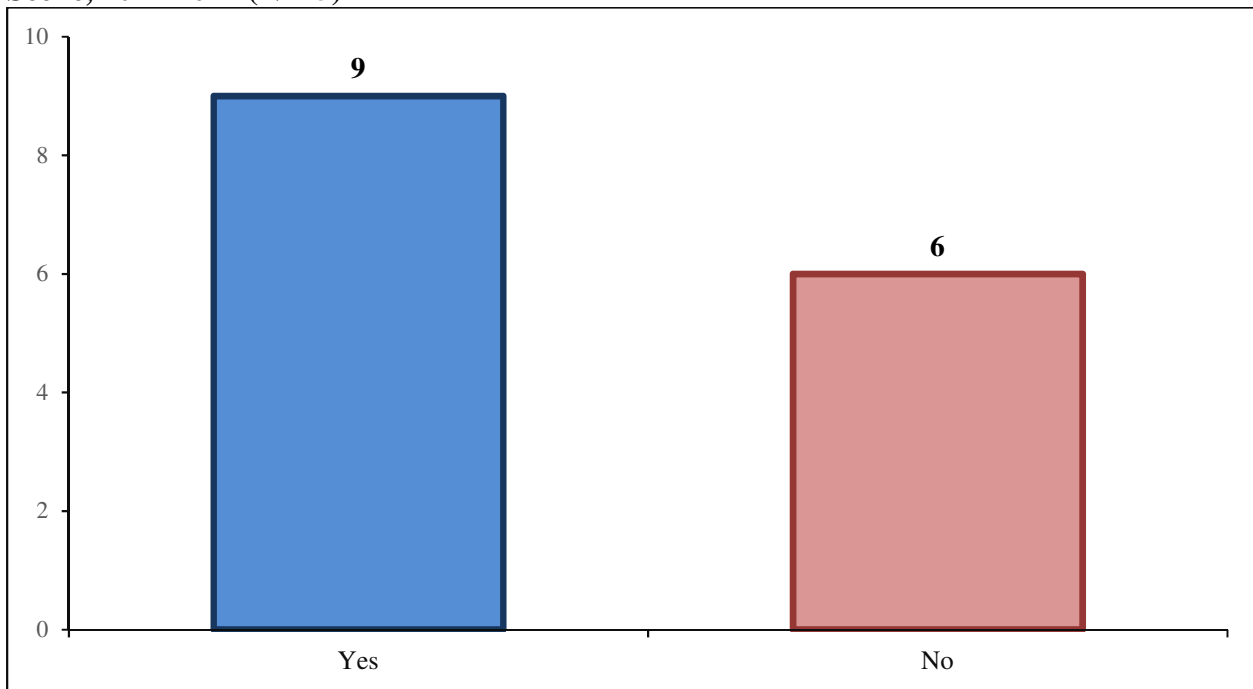


Supervisor on Scene

Many law enforcement agencies have found that dispatching a supervisor to the scene of a critical incident can reduce the likelihood that lethal force will be used.⁵⁷ Some law enforcement agencies have trained their dispatchers to specifically ask patrol supervisors if they are en route to certain types of high-risk calls.

PERF examined VCSO's DIS cases to determine whether a supervisor was present at the scene at the time of the shooting. As Figure 13 below demonstrates, nine of the 15 DIS cases between 2014 and 2017 took place with a supervisor present.

Figure 13. Number of Deputy-Involved Shootings by Whether a Supervisor Was On-Scene, 2014-2017 (N=15)



Recommendation: *VCSO should also ensure that first-line supervisors are trained in techniques that will help reduce the likelihood of unnecessary force occurring. VCSO should continue to provide training on de-escalation strategies; the utilization of operational safety tactics;⁵⁸ tactical communications techniques⁵⁹; and crisis intervention to all first-line supervisors in order to reduce the likelihood of unnecessary force.*

⁵⁷ Police Executive Research Forum (2016). *Guiding Principles on Use of Force*. <https://perf.memberclicks.net/assets/guidingprinciples1.pdf>.

Pp. 62-63.

⁵⁸ Police Executive Research Forum, ICAT: Integrating Communications, Assessment, and Tactics. Training Module 5, Operational Safety Tactics. <http://www.policeforum.org/assets/icattrainingguide.pdf>

⁵⁹ Police Executive Research Forum, ICAT: Integrating Communications, Assessment, and Tactics. Training Module 4, Tactical Communications. <http://www.policeforum.org/assets/icattrainingguide.pdf>

Recommendation: *The Sheriff should also continue to personally meet with personnel at the sergeant level to stress the importance of their role as a supervisor in critical incidents. This was the approach taken in the Palm Beach County Sheriff's Office (PBSO), where Sheriff Ric Bradshaw introduced the concept of a "tactical pause"—a time for supervisors and deputies to pause and consider their options before engaging a potentially threatening subject. Sheriff Bradshaw initiated this process by discussing the philosophy in a group setting with all personnel at the level of sergeant and above, and PBSO continues to stress this approach through in-service and roll call training. PERF's review of PBSO data since 2010 suggests that this concept may already have had the positive impact of helping to reduce the number of deputy-involved shootings in 2015.*

Number of Subjects and Deputies Involved

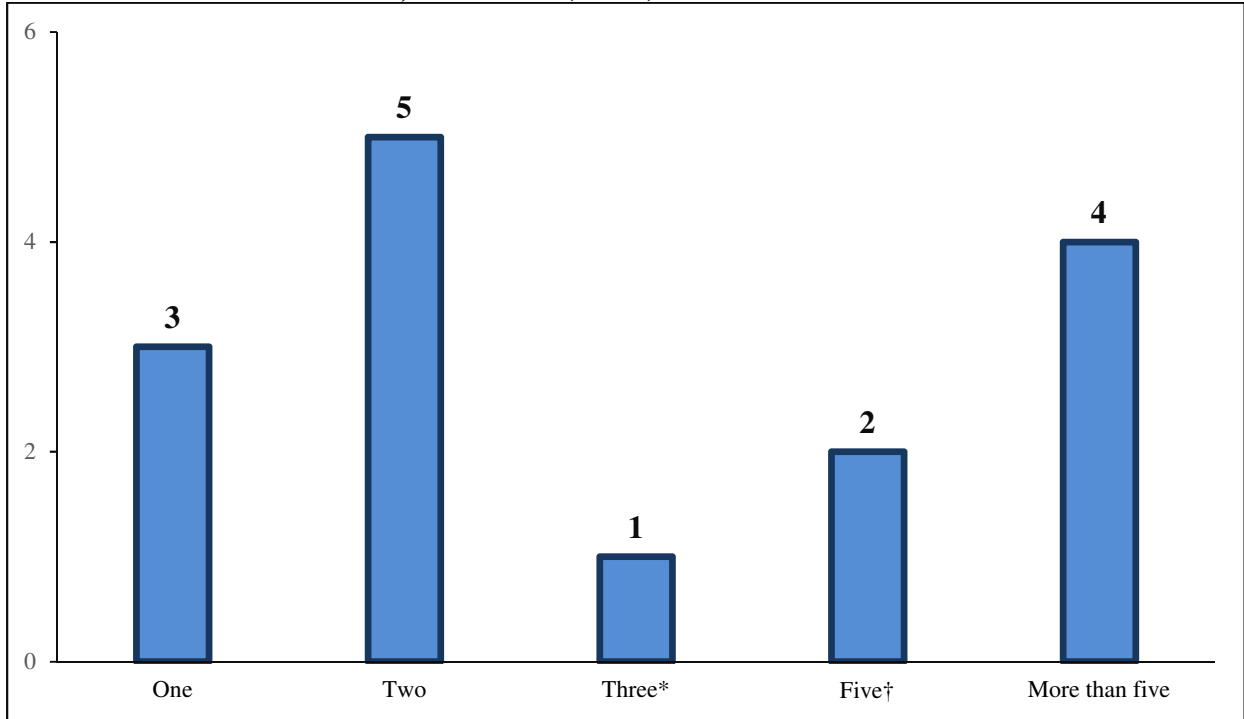
In all the 15 DIS case files that included a subject shooting at deputies, **there was only one subject involved.**

PERF examined how many law enforcement officials (i.e., VCSO deputies and officers from municipal agencies) were at the scene when the shooting incident occurred. As shown in Figure 14, PERF's analysis found that in 12 of the 15 cases, there was more than one law enforcement official present when the DIS incident occurred.

Even though there were more than five law enforcement officials present at the scene for more than one-fourth of VCSO's DIS incidents, the large number of deputies and police officers present at these incidents can be explained.

For instance, one incident involved eight deputies who were serving a search warrant when the shooting occurred. In another incident, a man fired upon deputies when they responded to a domestic violence incident. As the incident unfolded, additional deputies arrived on scene, ultimately resulting in the presence of nine deputies on scene during the event. Eleven law enforcement officials (six deputies and five municipal police officers) were present at the scene of an incident in which a man opened fire at his own law firm, then attempted to flee law enforcement officers in his vehicle when they responded. Eventually the man crashed his vehicle, and 11 law enforcement officials arrived on the scene as the man pointed a gun at two deputies and one police officer. In a fourth incident, 13 deputies and four police officers were on the scene when the shooting occurred; deputies and officers had responded to calls about a man standing in the street and pointing a gun at passing vehicles. When the man was confronted by law enforcement, he entered his vehicle and attempted to flee. After a short pursuit, the man stopped and began a nearly hour-long standoff. During the standoff, additional personnel arrived at the scene.

Figure 14. Deputy-Involved Shootings by Number of Law Enforcement Officials Present When the Incident Occurred, 2014-2017 (N=15)

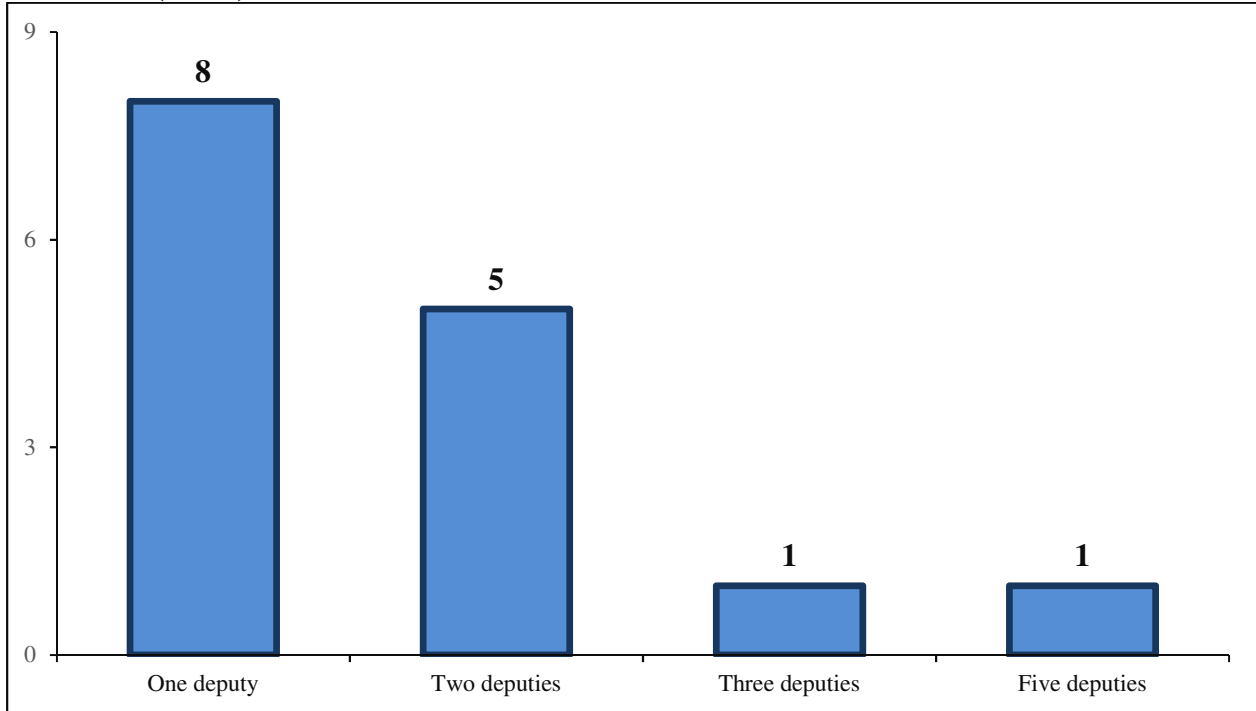


*This incident included two VCSO deputies and one officer from a municipal police department.

†One of the incidents in this category involved three deputies from VCSO and two officers from a municipal police department.

PERF also examined the number of deputies who discharged their weapons in each incident. Figure 15 shows the number of DIS cases broken down by the count of VCSO deputies who fired their service weapons. Eight of the 15 DIS cases involved one deputy discharging his or her service weapon. The maximum count of deputies who discharged their firearms was five.

Figure 15. Deputy-Involved Shootings by Number of Deputies Discharging Firearms, 2014-2017 (N=15)



Characteristics of Subjects Involved in DIS Cases

PERF's review of VCSO's deputy-involved shooting cases included an examination of the characteristics of the subjects involved in these incidents. Across the 15 DIS cases that PERF examined, there were 15 confirmed subjects who were fired at by police. All of the cases involved only one subject.

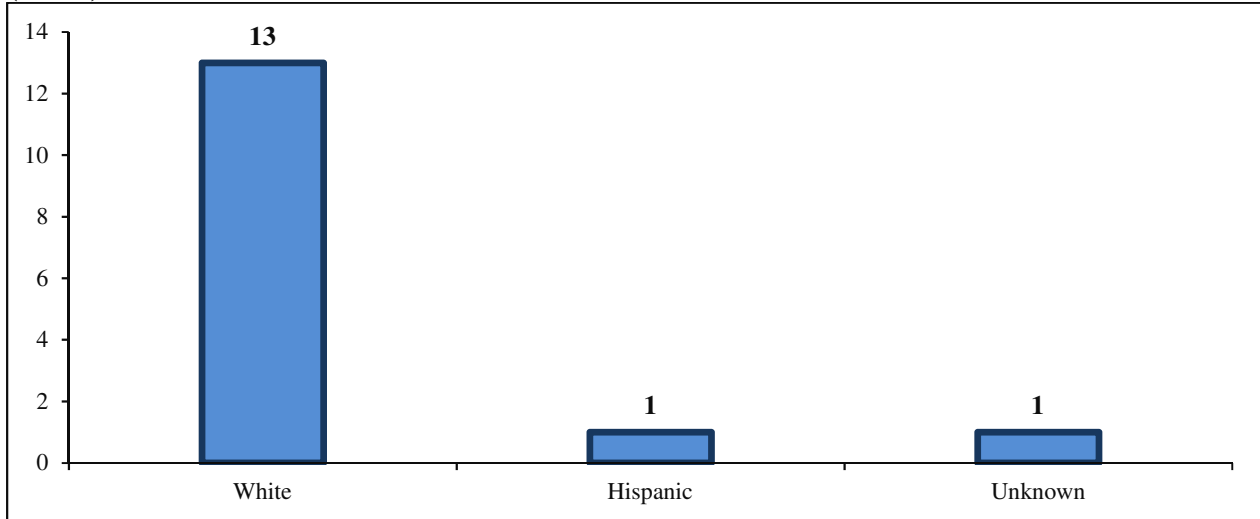
Gender of Subject

In 14 of the 15 DIS case files analyzed by PERF, the subjects were males. In one case, the gender of the subject was unknown, because the deputy did not have a clearly identified target and was firing in the general direction of a threat.

Race/Ethnicity of Subject

As shown in Figure 16 below, 13 of the 15 subjects involved in VCSO's DIS cases were White, and one was Hispanic. In one case, the race/ethnicity of the subject was not known (again, the case in which the deputy did not have a clearly identified target and was firing in the general direction of a threat).

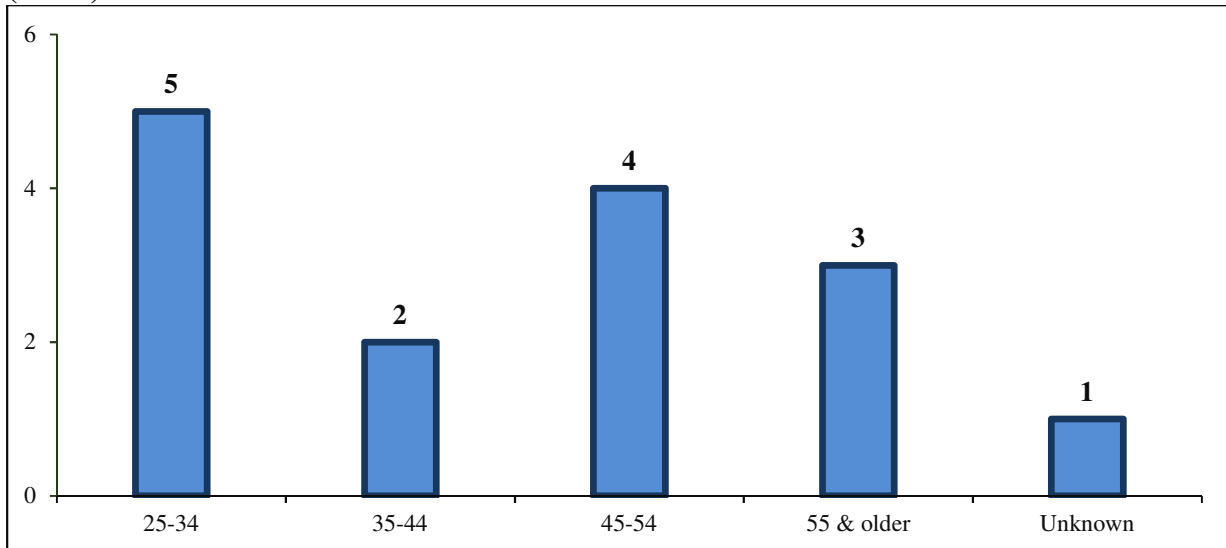
Figure 16. Number of Subjects in Deputy-Involved Shootings, by Race/Ethnicity 2014-2017 (N=15)



Age of Subject

Figure 17 below shows the number of subjects involved in the DIS cases from 2014-2017 according to age. Even though one-third of subjects were between 25 and 34 years old, the subjects were spread across a variety of age categories. One subject's age was unknown (the deputy did not have a clearly identified target and was firing in the general direction of a threat).

Figure 17. Number of Subjects in Deputy-Involved Shootings, by Age Category 2014-2017 (N=15)



Deputies Engaged in Verbal Communication or Used Less-Lethal Weapons

PERF examined VCSO's case files to understand whether there was some degree of communication between the subject and deputy prior to the shooting. Determinations that a deputy did communicate were made conservatively by reviewers, based on qualitative assessment of whether the shooting occurred quickly, or whether the deputy had had an opportunity to attempt to resolve the incident without the use of force prior to the shooting.

In four of the DIS cases reviewed by PERF, deputies either attempted to use or were unsuccessful in the use of less-lethal weapons. In one case, deputies called for a less-lethal shotgun to be brought to the scene of the incident; however, the less-lethal shotgun was not delivered to the scene before the DIS incident occurred. In the same incident, a deputy attempted to use an Electronic Control Weapon (ECW), but was unable to get close enough to the subject to deploy the ECW. In another case, deputies used stop sticks to deflate a fleeing subject's tires, but unsuccessfully used a beanbag shotgun prior to using lethal force. In the third case, a VCSO canine was deployed on a subject. In another incident, deputies deployed stop sticks in an effort to disable a subject's vehicle.

In the DIS cases reviewed by PERF, there was no evidence that VCSO deputies were able to engage in some degree of verbal de-escalation prior to the shooting. However, in one incident, a municipal police officer was able to engage in verbal communication with the subject prior to the shooting.

Summary of Findings from DIS Case File Review

PERF's review of VCSO's DIS incidents revealed several important findings. PERF found that all 15 shootings involved one subject. In 13 incidents, the subject either was in possession of a firearm or attempted to gain possession of a firearm, and in six of these incidents the subject fired at deputies. Eleven of the 15 DIS incidents were contact shootings (a shooting incident where a subject was struck with a bullet or any other projectile) and four were non-contact shootings. Ten of the 11 contact shootings resulted in the subject's fatality. PERF found that in nine DIS incidents, a supervisor was on scene when the shooting occurred.

SECTION III. VCSO USE-OF-FORCE TRAINING AND CRISIS INTERVENTION TRAINING

PERF's review of the Volusia County Sheriff's Office (VCSO) included an assessment of the agency's current practices with respect to use-of-force training and crisis intervention training. PERF also reviewed VCSO's curricula covered during 10 weeks of the Field Training and Evaluation Period (FTEP).⁶⁰

During this review, VCSO made plans to implement PERF's Integrating Communications, Assessment, and Tactics (ICAT) Training. Incorporating this training will enable VCSO deputies to better respond to crisis situations. Consistent and thorough training is critical for ensuring that deputies have the tools they need to respond to a wide range of incidents. Without this continued training, the recommended changes to policies and practices outlined in other sections of this report will be difficult to implement.

VCSO has assigned a captain to oversee department training. The captain utilizes other instructors and experts to assist in the delivery of agency training. During this review, PERF interviewed several agency instructors and found them to be professional, open-minded, and knowledgeable regarding current progressive police practices.

The following sections describe VCSO's current training practices and PERF's recommendations for strengthening certain areas.

ICAT Train-the-Trainer

In August 2017, PERF conducted ICAT train-the-trainer instruction for several VCSO deputies and supervisors. Participants were carefully selected implementation of the training. The participants were actively engaged throughout the day, discussing methods to adapt and deliver the instruction to all VCSO personnel.

PERF will continue to support VCSO as the agency implements the ICAT training program.

PERF's Integrating Communications, Assessment, And Tactics Training Guide

To help law enforcement agencies implement the PERF's 30 Guiding Principles on Use of Force, PERF developed *ICAT: Integrating Communications, Assessment, and Tactics*,⁶¹ a training guide that represents a new way of thinking about use-of-force training for American police officers. ICAT takes the essential building blocks of critical thinking, crisis intervention, communications, and tactics, and puts them together in an integrated approach to training.

⁶⁰ VCSO's Field Training and Evaluation Period (FTEP) is for newly hired deputies who have already completed the state required FDLE training. The material covered during FTEP is specific to VCSO.

⁶¹ Police Executive Research Forum (2016). *ICAT: Integrating Communications, Assessment, and Tactics. Training Guide for Defusing Critical Incidents*. <http://www.policeforum.org/assets/icattrainingguide.pdf>

ICAT is anchored by the Critical Decision-Making Model, and is designed to increase officer safety and public safety by providing officers with more tools, skills, and options for handling critical incidents, especially those involving subjects who are in crisis but who are not armed with firearms. The cornerstones of ICAT include slowing incidents down in order to avoid reaching a point where there is a need to use lethal force, upholding the sanctity of life, building community trust, and protecting officers from physical, emotional, and legal harm.

The ICAT Training Guide is comprised of six modules:

- Introduction to ICAT
- Critical Decision-Making Model
- Crisis Recognition and Response
- Tactical Communications
- Operational Safety Tactics
- Integration and Practice

The ICAT Training Guide includes model lesson plans, scenario-based training exercises, PowerPoint presentations, case study videos of use-of-force incidents, and other resources. The Training Guide was developed with the help of a Working Group of more than 60 professionals representing law enforcement agencies and other organizations from across the country. A panel of 10 policing experts reviewed a draft of the Training Guide, and the training was pilot-tested in seven sites throughout the country in August and September of 2016.

Feedback from the expert review and pilot sites was incorporated into a final report,⁶² which was released in October 2016. In December 2016, PERF held a national meeting on how to implement ICAT Training. This meeting, which was held in New Orleans, was attended by more than 400 individuals representing more than 160 police agencies.

PERF held similar meetings in 2017 in Baltimore; Los Angeles; Columbia, SC; and Camden County, NJ to assist agencies across the country in implementing ICAT training. As of October 2017, approximately 1,100 police professionals from 425 law enforcement agencies have attended these ICAT training meetings.

New Deputy Training

VCSO primarily hires deputies who have completed the Basic Recruit Training Program.⁶³ All newly hired deputies complete the 10 weeks of VCSO-specific instruction provided during the VCSO Field Training and Evaluation Period (FTEP). At this stage, new deputies focus on the agency's policies and practices, as well as specific VCSO firearms training and qualifications.

⁶² Ibid.

⁶³ The Florida Department of Law Enforcement requires individuals who wish to pursue a career as a certified law enforcement officer to complete the Basic Recruit Training Program. The Basic Recruit Training Program must be completed at a Criminal Justice Training Center certified training school.

Upon completion of the 10 weeks of VCSO-specific training, new deputies undergo field training that consists of 40 shifts. During the first 10 shifts, new deputies ride along with their trainer, then for the next 10 shifts the new deputies handle about 25% of the responsibilities. As the program continues, deputies become responsible for 75% of the responsibilities during their next 10 shifts. During the final 10 shifts, the new deputies are fully responsible for law enforcement activities. It is important to note that experienced training deputies provide guidance and evaluate the new deputies during all 40 shifts.

Review of FTEP Curricula

PERF reviewed the curricula covered during VCSO's Field Training and Evaluation Period (FTEP). The topics covered during this 10-week period are in line with what should be taught, but PERF believes that the perspective and presentation of these topics can be improved. The sections below highlight the areas of VCSO's FTEP curricula that may promote a "warrior" culture within the agency rather than a "guardian" approach, and recommendations for improvements.

FTEP – Week One

During the first week of FTEP, new deputies attend the following courses:

- "Deputy Awareness: Surviving the Career,"
- "Environmental Awareness,"
- "Critical Incident Stress Management,"
- "De-escalation Training," and
- "Verbal Judo."

While reviewing the outlines for some of these course, PERF identified content that may instill a "warrior" mindset among the new deputies. For instance, the course outlines for "Deputy Awareness: Surviving the Career" and "Environmental Awareness" focus, to a large extent, on aggression and preparing for battle. PERF also noticed that the content for the "Deputy Awareness" course was based on VCSO's "Officer Survival" lesson plan, which was created in the late 1980s and last revised in 1999.

Given that the number of law enforcement officers killed in ambush attacks more than doubled in 2016,⁶⁴ PERF recognizes the importance of teaching deputies about the dangers associated with a career in law enforcement, and how to react and respond in ambush situations. However, because FTEP training is the first instruction provided by VCSO to new deputies, PERF believes the agency should change its approach.

⁶⁴ Of the 66 police officers feloniously killed in 2016, 17 were ambushed. In 2015, seven of the 41 police officers feloniously killed were ambushed (United States Department of Justice. Federal Bureau of Investigation. (2017). "Table 23: Law Enforcement Officers Feloniously Killed - Circumstances at Scene of Incident, 2007-2016." *Law Enforcement Killed or Assaulted, 2016*. <https://ucr.fbi.gov/leoka/2016/officers-feloniously-killed/tables/table-23.xls>

Recommendation: *Rather than beginning FTEP with courses that instill a “warrior” mindset among new deputies, VCSO should focus on the most significant issues in law enforcement, such as:*

- *The mission and role of law enforcement in a democratic society;*
- *Critical thinking skills;*
- *The sanctity of human life;*
- *Overall use-of-force policies, de-escalation, and crisis intervention strategies; and*
- *Analyzing complex situations and devising effective responses.*

By focusing on the most important issues first, VCSO can send an important message to new deputies about the agency’s priorities, the nature of the profession, and what is expected of them. VCSO should revise the content to reflect that deputies are “guardians” and serve the community.

Recommendation: *VCSO should implement PERF’s Integrating Communications, Assessment and Tactics (ICAT) training for new deputies during the first week of FTEP. Introducing this training early will provide new deputies with the foundation for learning tools and developing skills and options they need to successfully and safely defuse a range of critical incidents. This will also introduce the Critical Decision-Making Model (CDM) early in training, which will allow deputies to use the CDM as they progress through training.*

FTEP – Week Two

The entire second week of VCSO’s FTEP is dedicated to defensive tactics. According to the lesson plans PERF received, VCSO training staff covers an array of defensive tactics, including a variety of neck restraints. Even though deputies are trained on six different types of neck restraints, VCSO’s use-of-force policy does not include any language that authorizes or limits the use of neck restraints.

Some police agencies treat the carotid control hold as lethal force and prohibit its use except in situations in which lethal force is authorized. This is the position taken by the U.S. Department of Justice (DOJ) in several of its recent consent decrees with police agencies. For example, the DOJ’s consent decrees with the City of Albuquerque (2014) and City of New Orleans (2013) both state that “neck holds” (which are defined to include carotid restraint) “shall be considered lethal force” and that the police departments “shall explicitly prohibit neck holds, except where lethal force is authorized.”⁶⁵ Furthermore, other agencies, such as the New York City Police Department and Philadelphia Police Department, forbid the use of these techniques in any circumstances, due to safety concerns.

⁶⁵ *United States v. City of Albuquerque*, Settlement Agreement (2014), pp. 12, 15.

<https://www.justice.gov/sites/default/files/usao-nm/legacy/2015/01/20/DOJ-ABQ%20Settlement%20Agreement%20EXECUTED.pdf>.

United States v. City of New Orleans, Consent Decree Regarding the New Orleans Police Department (2013), p. 20. https://www.justice.gov/sites/default/files/crt/legacy/2013/01/11/nopd_agreement_1-11-13.pdf

Recommendation: *PERF has generally recommended the prohibition of any type of neck restraint, due to the limited occasions in which it is ever used, and the extensive training and skill required to perform it effectively. If VCSO decides that deputies can use neck restraints, it must ensure that all deputies are trained and tested yearly on the proper techniques, and that policy and training are revised so that **it is authorized only in situations in which lethal force is authorized.***

FTEP – Week Three

During the third week of FTEP, new deputies receive firearms training. Upon reviewing the lesson plans for VCSO’s firearm training, PERF noticed that new deputies complete training titled “Combat Shooting Course.” PERF believes it is problematic to use the term “combat” to describe the firearms training the new deputies receive. The term “combat” only serves to further reinforce the “warrior” mindset among new deputies.

Recommendation: *The content and requirements of VCSO’s “Combat Shooting Course” are the same as those of a standard law enforcement firearms qualification course. Therefore, VCSO should change the title of the “Combat Shooting Course.” The new title of this course should not reinforce the “warrior” mindset among deputies. VCSO can simply refer to the course as “Firearms Qualification Course.”*

FTEP – Week Four

The fourth week of FTEP is dedicated to crisis intervention team (CIT) training. New deputies receive 40 hours of CIT training provided by personnel from Stewart-Marchman-Act Behavioral Healthcare.⁶⁶ VCSO personnel told PERF that new deputies receive lecture-based instruction during the first four days of training, but the final day is entirely dedicated to scenarios based on the course.

Recommendation: *Concepts taught during ICAT training should be integrated into the CIT scenario-based training. For example, as deputies work through scenarios, VCSO should ensure that deputies are implementing the CDM and the tactics learned during ICAT training.*

FTEP – Week Five

The fifth week of VCSO’s FTEP includes a four-hour discussion on body worn cameras. The remainder of the fifth week is dedicated to emergency vehicle operations.

PERF agrees with the inclusion of these topics during VCSO’s FTEP. VCSO need not make any changes to the content of these courses.

⁶⁶ Stewart-Marchman-Act Behavior Healthcare is the behavioral healthcare provider for Flagler, Putnam, St. Johns, and Volusia Counties.

FTEP – Week Six

During the sixth week of FTEP, new deputies complete the following courses:

- “Patrol Sergeant Report Writing Class,”
- “Florida Crime Information Center/National Crime Information Center Certification,”
- “Taser,”
- “Impact Shotgun,”
- “Crime Scene”
- “Investigations,”
- “Report Writing,”
- “ASP/Redman,” and
- “Freeze+P.”

Recommendation: *VCSO should change the titles of “Taser,” “ASP/Redman,” and “Freeze+P” courses to “Electronic Control Weapons,” “Expandable Baton,” and “Oleoresin Capsicum Spray.”*

Recommendation: *VCSO should review the material taught during the FTEP ECW, expandable baton, and oleoresin capsicum spray courses to ensure that the content matches the agency’s updated policies regarding the use of these less-lethal weapons.*

Recommendation: *VCSO should reinforce the utilization of the Critical Decision-Making Model (CDM) during this week of FTEP. Even though new deputies are learning how to use less-lethal weapons during this week of training, it should be reiterated that deputies should always have a back-up plan, and that de-escalation is about diffusing situations before it becomes necessary to use force, and not about a reduction of physical force.*

FTEP – Week Seven

Week seven of VCSO’s FTEP involves lecture-based instruction and practical scenarios in the following areas:

- Clearing Buildings,
- One-Deputy Response to Calls,
- Traffic Stops, and
- Two-Deputy Response to Calls.

The new deputies also receive instruction regarding felony stops and investigations during the seventh week of FTEP, but do not complete scenario-based training for these specific topics.

Recommendation: *VCSO should continue to use scenario-based training during FTEP. In addition to scenarios currently used, VCSO should also incorporate scenarios that*

focus on reinforcing the “guardian” mindset, organization values, the use of de-escalation, proportionality, and minimizing the use of force.

FTEP – Week Eight

During week eight of FTEP, new deputies receive two days of instruction on active killer situations, one day of instruction on Swift Assisted Victim Extraction (SAVE), and one day of instruction on Tactical Combat Casualty Care. During this week, new deputies also receive training on administering Narcan, complete a physical fitness test, and receive instruction on temporary detention and accreditation.

PERF agrees with the inclusion of these topics during VCSO’s FTEP. VCSO need not make any changes to the content of these courses.

FTEP – Week Nine

During the ninth week of FTEP, new deputies complete the following courses:

- “Patrol Rifle,”
- “Mobile Field Force,”
- “Ballistic Shield,” and
- “Internet Crimes Against Children.”

PERF agrees with the inclusion of these topics during VCSO’s FTEP. VCSO need not make any changes to the content of these courses.

FTEP – Week Ten

During the final week of VCSO’s FTEP, new deputies receive instruction on civil instruction, communication and dispatching, the Florida Department of Law Enforcement (FDLE) officer-involved shooting investigation process, and courtroom testimony.

PERF agrees with the inclusion of these topics during VCSO’s FTEP. VCSO need not make any changes to the content of these courses.

In-Service Training

During interviews with VCSO personnel, PERF learned that veteran deputies received two hours of de-escalation training during 2017 in-service training. PERF believes VCSO would be better served if the agency provided additional de-escalation training to veteran deputies.

Recommendation: *In future in-service training, VCSO should provide eight hours of ICAT training for veteran deputies. Additionally, VCSO should ensure that the ICAT training is coupled with scenarios, so deputies will have the opportunity to practice de-escalation skills.*

Recommendation: *VCSO should develop and improve crisis intervention team (CIT) training. This should involve the identification of specific deputies who could be provided additional specialized training and who could respond to calls involving individuals experiencing a crisis. VCSO may also consider pairing deputies who have completed additional CIT training with a mental health/substance abuse caseworker to provide constant coverage to the county.*

ADDITIONAL RECOMMENDATIONS

PERF has identified several other key recommendations that will help the Volusia County Sheriff's Office improve its use-of-force policy, training, and practices. Several of these recommendations are intended to strengthen agency transparency and accountability to members of the community.

Recommendation: *VCSO should formalize the Sheriff's Advisory Board. The board should include representatives from all areas of Volusia County, as well as individuals representing minority groups in the community.*

Recommendation: *VCSO should develop a critical incident review panel. Agency leaders should carefully select VCSO personnel to serve on this panel. Following an Internal Affairs administrative review of an incident, investigators should brief the critical incident review panel. The panel should thoroughly analyze the incident for matters related to tactical decision making, adherence to agency policy and procedures, training issues, quality of supervision during the incident, and quality of the investigations related to the incident. This analysis should include a review of events that occurred prior to, during, and after a critical incident to determine whether changes to policy, training, and procedures are needed to improve the response to these incidents. The results should be incorporated into training so that deputies can learn how to better respond to critical incidents. The critical incident review panel should compile a report to the sheriff with recommendations for accountability measures and suggestions for improvement.*

The critical incident review panel may also be used to conduct routine audits of a sample of other use-of-force case reports (depending on the number of reports) to ensure that all use-of-force incidents are being thoroughly and consistently reviewed by supervisors. These reviews could be conducted either quarterly or every six months, and the panel could provide a summary of its findings and any recommendations for improvement to the sheriff. In some cases, this administrative investigative review team could provide direct feedback to supervisors or request that specific incidents receive additional review or follow up.

Recommendation: *Currently, VCSO deputies may call the crisis line for a local mental health facility and wait for a mental health provider to respond when deputies encounter someone experiencing a mental health crisis or substance abuse-related crisis. PERF recommends that VCSO move toward a more proactive response that includes a deputy partnered with a mental health care provider for crisis response. Partnering deputies to patrol with a mental health care provider would allow for an immediate response and reduce the chances of a crisis situation escalating.*

Recommendation: *To increase transparency regarding the use of force and the use-of-force investigation and review process VCSO should post its Department Standards Directives online, with exceptions for cases in which release of policies on specific tactics could jeopardize deputies' safety. Many law enforcement agencies are making their*

department policies available for review online, and this is regarded as a progressive practice in policing. Examples of two major law enforcement agencies that have posted their policies online are the Seattle and Los Angeles Police Departments.

- <http://www.seattle.gov/police/publications/manual/default.htm>
- http://www.lapdonline.org/lapd_manual/

Recommendation: *VCSO should accept commendations, as well as complaints against deputies, through the agency's website. The complaint process may not be intuitive for some people who are not familiar with how law enforcement agencies are structured. There should be a clearly identifiable link on VCSO's website that allows individuals to easily access the complaint process information and the form to file a complaint, or a commendation.*

Recommendation: *VCSO should create an annual use-of-force report that includes the following information:*

- *How data on use-of-force incidents are captured,*
- *The number of incidents that occurred, and*
- *Whether the incidents were within policy.*

This report should be used to better understand use-of-force trends and opportunities for improvement. The report should be made available on the agency's website. Many police departments publish annual use-of-force reports on their departmental websites. One example is the Seattle, WA Police Department.⁶⁷

Recommendation: *VCSO should create an Internal Inspection Unit to be located within the Professional Standards Division. The Internal Inspection Unit should conduct proactive routine inspections of any VCSO units or activities. Routine internal inspections are an important accountability mechanism. Inspections can help to determine whether an agency's procedures and policies are being properly implemented, whether resources are used wisely, and whether there are any deficiencies in areas such as training, morale, and supervision. Progressive law enforcement agency management benefits from a comprehensive and robust inspection process.*

⁶⁷ Seattle Police Department. (2017). *Use of Force Annual Report*.
<https://www.seattle.gov/Documents/Departments/Police/Publications/Use%20of%20Force%20Annual%20Report%20-%20Final.pdf>

CONCLUSION

The Volusia County Sheriff's Office (VCSO) is committed to fully integrating progressive changes to improve the practices and organizational "culture" of the agency. Prior to the commencement of this review, VCSO took steps to update its use-of-force and less-lethal weapons policies. VCSO also added or changed some of the signage displayed in the agency's training center. Previous signs displayed messages reinforcing the "warrior" mentality, and during this review, VCSO replaced those signs with ones emphasizing the sanctity of life and the view of police as "guardians" of the community. The agency's personnel were fully cooperative with PERF staff members throughout the duration of this review, and department leaders were prepared and enthusiastic about implementing new training to further assist deputies in the development of de-escalation skills.

PERF's review included a thorough analysis of VCSO's policies and training to ensure they are aligned with best practices and guidance regarding the use-of-force and crisis intervention. In addition, PERF analyzed 15 of VCSO's deputy-involved shooting case files to assess whether improvements can be made to training and response to critical incidents. PERF found that many aspects of VCSO's use-of-force and less-lethal weapons policies, procedures, and training are consistent with progressive policing practices. PERF also found instances in which VCSO can strengthen its use-of-force and less-lethal weapons policies, procedures, and training, which are detailed in this report.

Combining and Strengthening Use-of-Force Policy

PERF found several strong concepts and guidelines within VCSO's use-of-force and less-lethal weapons policies. However, PERF believes VCSO would be better served if these two policies were merged to create one comprehensive use-of-force policy. Merging these directives will make it easier for deputies to find information regarding the use of force.

As VCSO moves forward with combining these policies, the agency should also make additions and revisions to some of the language currently used in these policies. PERF identified several areas within this report where VCSO can improve its use-of-force policy language. For example, VCSO should add language regarding proportionality, the duty to intervene, the importance of critical thinking, de-escalation, and supervisory responsibility for responding to critical incidents. VCSO should also revise existing policy language regarding shooting at vehicles, the Internal Affairs Unit Administrative Investigation, and documenting response to resistance.

PERF also identified several opportunities for VCSO to strengthen its Electronic Control Weapons (ECW) guidelines. Even though deputies are trained in accordance with the 2011 PERF/COPS Office guidelines,⁶⁸ the agency's policies should be improved to reflect this practice.

⁶⁸ Police Executive Research Forum and COPS Office (2011). *2011 Electronic Control Weapons Guidelines*. http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf.

Deputy-Involved Shooting Case File Review

PERF's review of data from VCSO's deputy-involved shooting (DIS) case files revealed a number of important things about the nature of these incidents. These findings have significant implications in terms of policies, practices, and training, and they provide the basis for the recommendations included in this report.

Strengthening DIS Case Investigation

PERF found several positive things with respect to how DIS cases are investigated and documented. For example, the DIS case files that PERF examined contained a great deal of information, including the appropriate documentation necessary for this analysis. Additionally, VCSO transferred the responsibility of investigating all contact DIS cases (i.e., the subject was struck by a projectile, such as a bullet) to the Florida Department of Law Enforcement (FDLE), to promote greater transparency and openness.

PERF also found that VCSO treats *all* shootings as serious in nature, regardless of whether the bullet or other projectile struck someone (contact shooting) or did not (non-contact shooting). Although FDLE does not investigate non-contact shootings, VCSO ensures that non-contact shootings are thoroughly investigated by the agency's Major Case and Internal Affairs Units. **This is a progressive policing practice, as it is the deputy's *intent* to shoot that matters, not the deputy's marksmanship.**

Policy Implications

Despite these positive practices, PERF's case file review revealed areas in which the DIS investigative process could be improved. For example, PERF found that the average time from when a DIS incident occurs until when the case is closed (i.e., when both the criminal and administrative investigations are complete) is approximately seven months. To expedite the investigation process, PERF recommends that the Internal Affairs Administrative Review should be conducted at the same time as the FDLE criminal investigation. VCSO should put protocols in place to protect the integrity of the criminal investigation.

Additionally, PERF recommends that when conducting the administrative review of DIS cases, VCSO should focus not only on whether the deputy's actions constituted misconduct, but also on whether there was a better way for the deputy to have responded to the incident that might have reduced the likelihood that use of deadly force would be necessary. This approach, which focuses on reviewing incidents in order to identify lessons learned and implications for policy and training, is similar to the approach taken by the National Transportation Safety Board (NTSB) when it investigates all civil aviation accidents in order to identify lessons learned moving forward.⁶⁹ With regard to deputy-involved shootings, this type of review may sometimes reveal that a shooting incident might have been avoided with better policies or training. This outcome can benefit the deputies, the Sheriff's Office, and the

⁶⁹ National Transportation Safety Board, <https://www.nts.gov/investigations/process/Pages/default.aspx>

community as a whole. VCSO has implemented a *Critical Incident Review Panel* to address these recommendations.

Emphasizing De-Escalation, Communication, and Decision-Making Skills

VCSO's case file data underscores the need for additional policies, tools, and training that are focused on strengthening communication and crisis intervention skills, deputy decision-making, and de-escalation principles such as proportionality and "slowing down" situations that do not pose an immediate threat.

PERF found that a fairly large percentage of VCSO's DIS cases involved a deputy assigned to patrol and a subject who may have been in mental health crisis or chemically impaired (e.g., under the influence of drugs or alcohol).

The finding that many of VCSO's DIS cases involve subjects who are in crisis, presents a significant opportunity for the department. The potential for deadly force in these types of cases can be greatly reduced when deputies are trained in crisis intervention, when they engage in communication with the subject, and when they are taught to slow down and wait for additional resources. Even though the majority of DIS case files involved a subject armed with a firearm, PERF believes VCSO should invest in training to assist deputies when encountering a subject who is in mental health crisis or chemically impaired, but who does not pose an immediate threat.

Recommendations for Strengthening Training

PERF recommends that VCSO strengthen its policies and training to provide deputies with tools, skills, and options for handling critical incidents that might potentially result in the use of lethal force – particularly those incidents that involve subjects who are unarmed or armed with something other than a firearm, such as an edged weapon, as well as cases involving individuals who are in crisis.

VCSO should look to PERF's 30 "Guiding Principles" on use of force, Critical Decision-Making Model (CDM) and ICAT: Integrating Communications, Assessment, and Tactics as guidance for how to strengthen training in these areas. For example, these tools emphasize **key de-escalation principles** including proportionality, using distance and cover, tactical repositioning, identifying and responding to people in crisis, "slowing down" situations that do not pose an immediate threat, waiting for back-up, and effective communication skills. This training should be scenario-based and integrated into the agency's overall use-of-force training. This approach to training is a priority for VCSO and is part of all new deputy training and refresher training.

VCSO can use its DIS data to assess where additional training would be most effective. For example, PERF found that most DIS cases (53%) began with a call for service, and most cases (80%) involved patrol deputies. Additionally, DIS incidents most often occurred during the time of day (6 p.m. to 12 a.m.) where there is traditionally a high volume of police activity. Over half (53%) of DIS incidents occurred in District Four. **These findings suggest that it could be**

effective to target additional use-of-force training to deputies who are more likely to be engaged with the public, especially those who respond to service requests. It might also be useful to prioritize implementing ICAT training in District Four and other districts that have a high volume of police activity. VCSO has implemented this recommendation and is in the process of providing additional training for those deputies in service areas with higher response to service requests and those assigned at peak incident times.

Ensuring a Supervisor Is on Scene

Many police agencies have found that dispatching a supervisor to the scene of a critical incident can reduce the likelihood that lethal force will be used. Supervisory response to a scene can be especially important when the call for service involves a weapon or a mental health crisis, or where there is a potential for the use of significant force.

VCSO should ensure that first-line supervisors are trained in techniques that will help reduce the likelihood of unnecessary force. For example, VCSO should ensure that all first-line supervisors are provided training on de-escalation strategies; the utilization of time, distance, and cover; communications techniques; and crisis intervention to reduce the likelihood of unnecessary force.

Furthermore, supervisor response is particularly important during the evening shift, as PERF found that more than one-half of VCSO's DIS incidents occurred between 6 p.m. and 12 a.m. Evening supervisors should be made keenly aware of this finding and respond with deputies to any calls involving a critical incident (e.g., when a subject is experiencing a mental health crisis).

New Deputy and In-Service Training

VCSO provides new deputies with 10 weeks of training through the agency's Field Training and Evaluation Period (FTEP). Most of the training provided over the 10 weeks is sound and necessary. PERF identified several areas of FTEP that may result in growth of a "warrior" culture among the deputies at VCSO. Instead of training that promotes the "warrior" culture, PERF believes the deputies and public would be better served if training focuses on the mission and role of law enforcement in a democratic society; critical thinking, the sanctity of human life; overall use-of-force policies, de-escalation, and crisis intervention strategies; and analyzing complex situations and devising effective responses.

VCSO personnel informed PERF that VCSO's 2017 in-service training only included two hours of de-escalation training. In future in-service training, VCSO should provide eight hours of ICAT training for veteran deputies. Additionally, VCSO should ensure that the ICAT training is coupled with scenarios, so deputies will have the opportunity to practice de-escalation skills.

VCSO has adopted the guardian mindset to training deputies and has completely restructured its training program to fully incorporate these concepts.

Improving Transparency

VCSO has an opportunity to strengthen its relationships with the community it serves by becoming more transparent. For example, VCSO should publish its entire use-of-force policy online. Doing so would inform the public about the policies and procedures that deputies are expected to follow. VCSO can also add more information to its website regarding the use of force. Specifically, VCSO should publish its annual use-of-force report. Publishing these documents online is becoming a common practice among policing agencies.

Moving Forward

Through the commissioning of this review, VCSO has demonstrated a commitment to fully incorporating best policing practices within the entire agency. VCSO has taken steps to strengthen its use-of-force policy, and plans to implement ICAT training to its deputies. These efforts, along with VCSO's dedication to making future improvements, will help the agency as it seeks to uphold the sanctity of life, to protect the well-being of all VCSO deputies, and to strengthen its relationships with the community it serves.