



# **KEEPING EVERYONE SAFE: Changes Needed to Pasco Police Practices**



---

The American Civil Liberties Union of Washington is a nonprofit, nonpartisan membership organization devoting to protecting the civil liberties of all people in Washington and extending rights to groups that historically have been denied equal treatment. For decades it has worked to make police forces accountable to the communities they serve in cities and towns throughout Washington.

---

The City of Pasco is a majority-Latino community of nearly 60,000 people in the Tri-Cities area of southeast Washington. The Pasco Police Department has 71 officers, 14 of whom are Latino and 12 of whom are Spanish-English bilingual.

Over the past year and a half, the city has experienced three high-profile shootings of civilians by police officers. In particular, the killing of Antonio Zambrano-Montes on February 10, 2015 on a busy downtown Pasco street during rush hour outraged many in the community and brought widespread attention to the Department's handling of the incident. The circumstances of these recent shootings share some troubling similarities. All the incidents occurred after police were called because the individual showed signs of unusual or crisis behavior, which appeared to be associated with mental distress or disorder.

The incidents raise serious questions: Was the level of force used by law enforcement necessary? Could officers have used an alternative approach to avoid the loss of life? What policies and training guide Pasco officers in the use of force, in responding to individuals in crisis, and in de-escalating situations?

To answer these questions, the ACLU asked the City of Pasco for all of the Department's policies, procedures, and training materials related to use of force, biased policing, and interactions with people with mental illness, and examined other publicly available information.<sup>1</sup> We compared Pasco's policies to the best practices of other departments and guidance issued by organizations such as the U.S. Department of Justice (DOJ). This report pinpoints and analyzes several areas of concern, and offers recommendations for addressing them.<sup>2</sup>

The concerns include the following:

- **Inadequate and outdated use of force policies and training** that focus on how to use force but not on how to de-escalate interactions with civilians.
- **Lack of policies on effectively interacting with people with mental illness** or suffering an emotional crisis, and limited crisis intervention training.
- **Inadequate policy and training on bias-free policing** which fail to provide guidance to officers on how to avoid biased practices in law enforcement.
- **Flawed investigative processes for fatal shootings by officers** that allow officers to delay being interviewed by investigators for weeks.

- **The lack of a clear process for accepting and investigating complaints** from the public.
- **The lack of meaningful community input** into police practices.
- **Insufficient police services in Spanish** for the large segment of the populace with limited proficiency in English.

To prevent unnecessary deaths and excessive use of force, the City of Pasco needs a thorough overhaul of the Police Department's policies, practices, and training regarding use of force, engagement with individuals in crisis, and cultural competency. Such reforms will help the Department fulfill its stated mission of "providing a safe environment" and "affording dignity to every individual."

## I. USING FORCE: POLICIES, TRAINING, AND INVESTIGATIONS

Police officers are given the responsibility to keep our communities safe. They are also given the authority to use force when necessary to protect themselves or others from physical danger. Under our Constitution, police use of force must be reasonable and appropriate to the threat of harm. In order to ensure that officers use force only when reasonable and necessary, police departments must have clear use of **force policies** and **effective training** and **supervision** to enforce those policies.

Based on the documents provided to the ACLU-WA by the Pasco Police Department and comparison of those documents to policies in place elsewhere, it is clear that the Department's policies are outdated and inadequate. The policies do not provide guidance about de-escalation nor adequate details to guide officers on when and how to decrease the use of force. Such guidelines are essential to avoid officers responding based on impulse, anger, or adrenaline.

### A. Proportional Use of Force

The level of force in any situation should be proportional to the threat to public or officer safety that the situation presents. Officers need to understand very clearly when various levels of force can be used. Yet, the Department's policy simply lists the uses of force that must be reported.

The Department's Use of Force policy relies on a "use of force continuum" that lists a progression of force options from the lightest application of force up to deadly force:

### **Continuum of Force**

- A. Verbal commands
- B. Physical direction or “escort” techniques
- C. Oleoresin Capsicum (OC) aerosols  
*(known as pepper spray)*
- D. Taser
- E. Hair holds and counter-joint techniques
- F. Impact weapons: batons, flashlights, kicks, punches, beanbag/baton rounds
- G. Carotid restraint or any neck holds  
*(if trained or at risk of life)*
- H. Firearms

While use of such a continuum is a standard law enforcement approach, Pasco’s policy does not provide guidance to determine how or under what circumstances various levels of force should be used. For example, the policy fails to warn officers against using tools such as Tasers or OC spray against particularly vulnerable subjects, such as frail or elderly people or pregnant women. It also fails to advise officers that using Tasers on people who are mentally ill or under the influence of drugs can cause unexpected effects and injuries.<sup>3</sup> Officers need much more guidance on how to use each tool so that they do not use force that is out of proportion to the situation.

In particular, specifying the circumstances under which an officer may resort to the use of deadly force is especially important because of the dire consequences such force entails. The Pasco Police Department puts lethal weapons in the hands of officers, yet does not provide adequate guidance on the use of deadly force. It lists two categories of situations where deadly force is authorized, each described in vague and generic terms and accompanied by definitions which are also vague and legalistic.<sup>4</sup> A clearer policy, on which officers are fully trained, could prevent deaths of civilians.

### ***Recommendations:***

Guidance on Use of Various Levels of Force: the Department should provide a detailed explanation for each level of force, from grabbing a subject by the arm without injury through deadly force, and detailed guidance on the use of each. It should include guidelines for using particular tools such as Tasers on particularly vulnerable individuals, and it should describe use on suspects in the following categories: fleeing, passive, restrained, and vulnerabilities due to physical location, injury, age, and medical condition.

The Department should provide a clearer definition of the term “force” and spell out the justification for the use of each

level of force.<sup>5</sup> The policy should define essential terms such as “immediate danger” and “serious bodily injury.”

The use of force policy should relate the force options available to officers to the types of conduct by individuals that would justify their use. For example, a Taser should not be used in response to verbal criticism by a subject, and use of firearms must take account of whether other people could be struck by stray bullets. The use of force policy should identify when and in what manner the use of lethal and less than lethal force are permitted (e.g., specify that chokeholds and strikes to the head are deadly force, require that supervisor approval must be obtained in order to use chemical spray on crowds).<sup>6</sup>

## **B. De-Escalation**

Police officers are often asked to control tense or even dangerous situations. Officers need to quickly decide if the people at the scene are posing a risk to each other, bystanders, or the officers themselves. Officers and people at the scene may be fearful, and may respond aggressively or in ways that increase rather than decrease the conflict. Whenever possible, officers should first attempt to bring calm to the scene so that they can sort out the facts and keep everyone safe. When officers use de-escalation tactics and techniques, they can minimize the need to use force during an incident and increase the likelihood of voluntary compliance.

Yet, Pasco Police Department policies place no emphasis on de-escalation practices. Officers are given no direction in how to de-escalate and are not even told that they should attempt to de-escalate an interaction if possible.

“

**When officers use de-escalation tactics and techniques, they can minimize the need to use force during an incident and increase the likelihood of voluntary compliance.**

”

Instead, Pasco Police Department policies emphasize the escalation of force. The Department’s Use of Force Continuum lists the steps on the ladder of increasing force available to officers and instructs officers to stay one step above the level of force or resistance used by the subject. Essentially, officers

are trained not to back off in using force. An emphasis on de-escalation can both prevent minor violations of the law from leading to violent confrontations and can reduce the number of officer-involved shootings.

**Recommendations:** The Department should revise its use of force policy and training to provide the specific **skills** necessary for de-escalation and to instill the **understanding and belief** in de-escalation as a key practice of community policing. The Department's policy should state that individuals must be provided an opportunity to submit to arrest before force is used. It should provide that force may be used only when verbal commands and other non-physical techniques would be ineffective or present a danger to the officer or others.<sup>7</sup> It should state that de-escalation, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units are often the appropriate response to a situation.<sup>8</sup>

The policy should also add that officers, supervisors and dispatch can call the Crisis Intervention Team to assist in finding alternatives to use of lethal force. (See further discussion of CIT below.) "Reality-based" training should also be provided to supplement the revised policy.<sup>9</sup> This involves giving officers experience with simulated but realistic situations they are likely to face in the field.

### C. Deadly Force Investigations

The Department's policies do not clearly require officers involved in a shooting to cooperate immediately and thoroughly with the investigation. The involved officers are eyewitnesses to the incident, yet their description of events loses accuracy with every day of delay in taking their statements and whenever there are opportunities for their recollections to be influenced by other sources. This can make it nearly impossible to accurately determine the facts. In the Zambrano-Montes investigation, the officers who shot at him were permitted to decline to be interviewed for seven weeks, which also undermined community confidence in the reliability of their statements.

**Recommendations:** An internal use of force review board should be established to review all uses of force above a certain level, including the use of firearms or other deadly force. This board serves a quality control or audit function, and is not disciplinary. The board investigates why force was used in a particular situation. It is an important tool to improve practices by helping supervisors look beyond the legal justification for the use of force and to instead understand whether the use of force was necessary or could have been avoided.

### D. Training

Pasco officers receive some training on how to use force, but not on how to not use force. Without such training, force is more likely to be used unnecessarily and result in avoidable civilian injuries and even deaths.

Like all peace officers in Washington, Pasco police officers receive initial training through the Washington State Criminal Justice Training Commission's Basic Law Enforcement Academy. Subsequent training is provided by Pasco or outside training vendors.<sup>10</sup> "Use of force" training emphasizes the use of firearms, hand-to-hand combat, and the use of less-lethal tools such as Tasers or O.C. spray. The training does not incorporate the idea of de-escalation (see section on de-escalation) and can leave officers with the impression that if an individual does not comply, force is the only option.

The training materials used by the Pasco Police Department fail to address situations where the individual's conduct or lack of compliance is actually a result of the subject's inability to hear or understand the officer's words or because the individual is experiencing a mental health or emotional crisis or is intoxicated. Officers are not trained to distinguish responses of a person who is defying the officer's commands from those of a person who is not able to comply with the commands. This can have deadly consequences.

**Recommendations:** Training should include how to de-escalate interactions with civilians and the benefits of de-escalation. Officers should receive training specifically focused on dealing with people with disabilities or in crisis.

The Department also should adopt an early intervention system that will identify officers who need additional training or who may be experiencing emotional or situational problems that are affecting their work.

### E. Reporting and Review of Use of Force

In order to improve use of force practices, a police department should regularly gather and analyze information about how and when its officers are using force. Pasco's departmental policy<sup>11</sup> requires officers only to report firearms discharge, the use of force when a death occurs, or the use of force that results in an injury. It requires reporting the information on a form that is passed through the chain of command up to the Chief of Police. The Chief then provides it to a training coordinator who conducts a quarterly review and annual analysis

of the reports' content. Despite this policy, based on the public records that we received from the Pasco Police Department, it appears that no annual analysis on use of force reports were prepared between January 2010 and February 2015.

**Recommendations:** The procedures for investigation of officer-involved shootings should be revised to reduce the delay in interviewing officers. In particular, the delay should be reduced lest it hamper investigations to determine why a death occurred.<sup>12</sup> The policy on reporting use of force should require that every use of force other than unresisted handcuffing be reported; even in cases of unresisted handcuffing, force should be reported if the subject complains of injury or excessive force. Active pointing of firearms should be reported as well.

Further, the Department should adopt a use of force reporting protocol being developed by the Force and Fitness training cadre at the Washington State Criminal Justice Training Commission. This will ensure the consistent collection of all information necessary for a full review by the officer's supervisor and the Use of Force Review Board. The Department should also adopt a policy on reporting use of force should that will specify to whom the officer must report and deadlines for actions by officers and supervisors.<sup>13</sup> This policy change will allow the Department and the public to hold supervisors accountable for poor investigation of uses of force and for actions to prevent excessive force in the future.

## II. DEALING WITH PEOPLE EXPERIENCING EMOTIONAL DISTRESS OR IN CRISIS

Safely managing interactions with people experiencing an emotional crisis is a necessary and common requirement of police work. As first responders, police officers are often the first ones to encounter disturbed behavior, although most response calls involving persons with mental illness are not the result of criminal behavior, but of emotional crisis.<sup>14</sup> How officers should respond to individuals with limited mental or sensory abilities may be quite different from other situations. All three recent deadly shootings of Pasco community members by officers have involved people experiencing emotional distress or a crisis, complicated by mental illness or drug use or both. In all three cases, the person who died allegedly made statements about wanting to kill himself.<sup>15</sup>

Our concerns about the Department's response to distressed individuals were heightened when we reviewed complaints submitted to the Department from the public. The records describe a 2011 complaint made by the Tri-Cities branch of

the National Alliance on Mental Illness (NAMI) alleging a Pasco officer reacted violently to a mentally ill female. The Department listed the outcome of this complaint as "not factual. No alerts she was mental." It failed to address the fact that NAMI's complaint had noted its concern with escalation of a minor misdemeanor incident into a felony and had recommended crisis intervention training (CIT) that other police in the Tri-Cities area have had.

“

**How officers should respond to individuals with limited mental or sensory abilities may be quite different from other situations.**

”

The Department did not provide materials describing its policy or training for crisis intervention or direction to officers on how to intervene safely and without using force against people experiencing an emotional crisis. There is no policy regarding the use of CIT officers or when they should be called in as an alternative to lethal force. There is no discussion about how officers should proceed if officers know that the subject is behaving strangely or making statements indicating the person is in crisis. Additionally, there is no policy or information about the extent and frequency that officers shall participate in CIT training.

It is unclear how often CIT training is offered, how many officers have completed the full course, and how often they receive it. One record shows only three officers completed the full 40-hour CIT training in 2014, and two did in 2008.<sup>16</sup> The records included a 9/15/14 email from the Police Chief to two others attaching a July 2014 MOU with Lourdes Counseling regarding an option for diversion to mental health counseling instead of arrest and filing charges. However, it only applied to "non-felony, non-serious" crimes and gave officers broad discretion to not use it under various circumstances; in the Chief's own words, "this will not deal with all of our mental health issues, in fact very few if you read the criteria for acceptance."

### **Recommendations:**

- Adopt clear policies on how to interact with people who are experiencing an emotional crisis, using information from the International Association of Chiefs of Police and other sources.<sup>17</sup>

- Use funding from the Crisis Intervention Training bill passed by the 2015 legislature to ensure that more officers have the full CIT training.<sup>18</sup> Adopt policies and training which provide guidance on when CIT-trained officers should be deployed to respond to calls about a mentally ill subject or a person exhibiting behavior indicating a person in crisis; doing so would help prevent unnecessary use of lethal force. The Department should have a list of officers who are specially trained to de-escalate when a person is in crisis.
- Train 911 dispatchers to ask how a person is acting, and specify when that triggers dispatching CIT officers.
- Develop meaningful partnerships with mental health providers who can care for the subject as an alternative to arrest. Explore adoption of a model crisis intervention team program, such as the ones created in San Diego, San Antonio and Los Angeles.<sup>19</sup> These programs divert people with mental illness out of the criminal justice system and into community-based services.

### III. BIAS-FREE POLICING

Everyone has biases. It is unfortunately commonplace to make assumptions about people with different skin colors, accents, or particular dress. Research has shown that biases are often implicit, and that most people do not readily recognize their own biases.<sup>20</sup> While bias can be a problem for our whole society, basing policing decisions on biased assumptions can be deadly. The ability of police officers to understand and control their biases is essential to achieving constitutional policing. The only way to control the impact of bias is to acknowledge bias and learn to understand how it affects behavior.

Community concerns about police bias against people of color, immigrants, or people with limited English proficiency lead to mistrust of the police and adversely impact community safety. Members of Pasco’s Latino community have expressed concerns that the police are engaging in biased policing. In order to build community trust, the Department must address these concerns.

Only after the Zambrano-Montes killing did the Department adopt a limited policy on bias-free policing. It states, in its entirety, “The Pasco Police Department will provide services and enforce laws in a professional, nondiscriminatory and fair manner to the people in our community. We will ensure Bias-Free Policing that includes all persons and those protected

by state or federal classifications. In addition the use of a motorcycle or motorcycle-related paraphernalia as described in RCW 43.101.419 will be included in our Bias-Free Policing.”<sup>21</sup>

The Department has a separate provision much later in its policy manual on Impartial Policing prohibiting “singl[ing] out or treat[ing a person] differently as a consequence of his or her race, sex, age, ethnicity, disability, or national origin.”<sup>22</sup> This section also states officers “shall not make derogatory comments about or express any prejudice concerning race, religion, sex, politics.”

The existing policies are too vague and brief to adequately guide officers on how to engage in practices that reduce the effects of biased policing. In order to take action to address biased policing, the Department must engage in serious analysis of its practices and train officers regarding this issue.

#### *Recommendations:*

- Adopt policies that recognize both institutional and individual bias, and provide specific guidance on how to reduce such biases in police practices. Adopting a strong policy will reinforce the message from the top of the Department on down the ranks that biased policing will not be tolerated.<sup>23</sup>
- Create specific training to teach officers and supervisors about implicit bias and how to recognize when an officer is acting on those biases and how harmful decisions based on bias can be.

### IV. BUILDING COMMUNITY TRUST

Pasco, like every other city, must strive to serve and protect all of its community members. Doing so requires that the Police Department engage with members of the community who are distrustful of police and are often difficult to reach. Gaining the trust of all parts of the community reduces tensions that can cause incidents to escalate and lead to unnecessary violence. The Department can make several changes that would quickly result in improved community trust.

#### A. Engaging the Community on Police Practices

After the recent shootings, many community members sought to engage with the Department around policies, practices, and training. While the Chief has a small civilian advisory committee, there is no process in place for concerned community members with diverse backgrounds and opinions to provide input to the Department in a public setting and in a meaningful way.

The Department should take advantage of residents' strong sense of community pride and engage with a wide range of community members beyond those on the advisory committee. Community members can help the Department to develop policies and procedures that are tailored to Pasco's particular circumstances. They can help develop training for Pasco officers, particularly in the area of bias-free policing, cultural competency, and building community trust. Doing so would truly make the people of Pasco a partner in policing.<sup>24</sup>

### ***Recommendations:***

- Create a Community Advisory Board with authority to review proposed policies in areas of greatest interest to the community, such as use of force, bias-free policing, and language access. Members should represent the diversity of Pasco, including people with limited English proficiency, people with disabilities, and people from traditionally underrepresented communities.
- Create a process for the Department to respond to input from the Community Advisory Board.
- Post on the Department's website public documents that give the public an understanding of its operations. These include its policy and procedure manual, quarterly use of force reviews, annual analysis of use of force records, and the number and types of complaints against officers.

## **B. Providing Access to Police Services for Spanish-Speaking Individuals**

According to U.S. Census data from 2013, 55.7% of Pasco's population identifies as Hispanic or Latino, and 48.1% of the population speaks Spanish. Of the Spanish-speaking population, more than half reported speaking English less than "very well." However, only 12 of Pasco's police officers are bilingual in Spanish and English. As we saw in the February 2015 shooting, Mr. Zambrano-Montes was speaking in Spanish, and it is unclear whether he understood officers' commands and refused to comply or simply did not understand them.

The Department cannot adequately serve the community and protect public safety without addressing the need to have more officers proficient in Spanish. The Spanish-speaking community of Pasco needs to be able to communicate with the police in order to report a crime, ask for help in a medical emergency, seek assistance for domestic abuse, or find resources for a child who is at risk for crime involvement. With Spanish-speakers comprising such a large segment of

the community, city leaders need to ensure that language is not a barrier to their access to police protection and services.

“

**With Spanish-speakers comprising such a large segment of the community, city leaders need to ensure that language is not a barrier to their access to police protection and services.**

”

### ***Recommendations:***

- Recruit, hire, and train more Spanish-English bilingual officers.
- Ensure 24-hour access to interpreters.<sup>25</sup>
- Train 911 dispatchers to alert officers at the time of dispatch about any English-language limitations. If possible, dispatch Spanish-speaking officers to these calls. If that is not possible, ensure that interpreters will be immediately available. Recruit more bilingual English-Spanish dispatchers.
- Train officers on the public safety consequences of inadequate interpretation. For example, domestic violence investigations may be compromised if one spouse is permitted to interpret for the other. Also, Spanish speakers may not fully disclose sensitive or embarrassing information if their children are enlisted to interpret for their parents.

## **C. Receiving and Responding to Complaints from the Community**

The Pasco Police Department's mission statement pledges to "work in partnership with the community to provide a safe environment and reduce the fear of crime while affording dignity and respect to every individual." Accomplishing this requires the Department to be open to receiving and responding to complaints from the community. An effective complaint process gives the community a voice in how the police department operates and gives the Department the opportunity to keep in touch with the community and learn from its mistakes. Responding to complaints quickly and professionally without defensiveness builds community confidence.

It is unclear to the public what the Department's process is for a civilian to submit a complaint of police misconduct. A search

of the City website found only a city-wide form that appears intended to catalog complaints about such things as barking dogs or graffiti. The police department's website makes no mention of a process for investigating complaints of police misconduct. From the public records response it appears that very few people have found a way to submit formal complaints. The documents provided show that the Department received only one to three complaints per year between January 2010 and January 2015. The Department disposed of each complaint by stating either the Department was exonerated or the complaint was unfounded. The complainants received a short form letter from the Police Chief, with general statements that an investigation was done and the conclusion reached.

***Recommendations:***

- Create an open, transparent complaint investigation process to ensure that complaints from the public will be investigated seriously, and post information about the process prominently on the Pasco Police Department homepage.
- Create community education materials explaining the process for submitting complaints, and ensure that this information is easily accessible to community members and in Spanish as well as English.
- Publish annual reports describing the kinds of complaints received and the outcome of the investigation of those complaints

**SUMMARY OF RECOMMENDATIONS**

**I. Proportional Use of Force**

- The Department should provide a detailed explanation for each level of force, from grabbing a subject by the arm without injury through deadly force, and detailed guidance on their use. It should include guidelines for using particular tools such as Tasers on particularly vulnerable individuals, and it should describe use on suspects in the following categories: fleeing, passive, restrained, and vulnerabilities due to physical location, injury, age, and medical condition.
- The Department should provide a clearer definition of the term “force” and spell out the justification for the use of each level of force. The policy should define essential terms such as “immediate danger” and “serious bodily injury.”

- The use of force policy should relate the force options available to officers to the types of conduct by individuals that would justify the use of such force. For example, a Taser should not be used in response to verbal criticism by a subject, and use of firearms must take account of whether other people could be struck by stray bullets. The use of force policy should identify when and in what manner the use of lethal and less than lethal force are permitted (e.g., specify that chokeholds and strikes to the head are deadly force, require that supervisor approval must be obtained in order to use chemical spray on crowds).

**II. De-Escalation**

- The Department should revise its use of force policy and training to provide the specific skills necessary for de-escalation and to instill the understanding and belief in de-escalation as a key practice of community policing. The Department's policy should state that individuals must be provided an opportunity to submit to arrest before force is used. It should provide that force may be used only when verbal commands and other non-physical techniques would be ineffective or present a danger to the officer or others. It should state that de-escalation, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units are often the appropriate response to a situation.
- The policy should also add that officers, supervisors and dispatch can call the Crisis Intervention Team to assist in finding alternatives to use of lethal force. (See further discussion of CIT below.) “Reality-based” training should also be provided to supplement the revised policy. This involves giving officers experience with simulated but realistic situations they are likely to face in the field.

**III. Deadly Force Investigations**

- An internal use of force review board should be established to review all uses of force above a certain level, including the use of firearms or other deadly force. This board serves a quality control or audit function, and is not disciplinary. The board investigates why force was used in a particular situation. It is an important tool to improve practices by helping supervisors look beyond the legal justification for the use of force and instead understand whether the use of force was necessary or could have been avoided.

#### IV. Training

- Training should include how to de-escalate interactions with civilians and the benefits of de-escalation. Officers should receive training specifically focused on dealing with people with disabilities or in crisis.
- The Department also should adopt an early intervention system that will identify officers who need additional training or who may be experiencing emotional or situational problems that are affecting their work.

#### V. Reporting and Review of Use of Force

- The procedures for investigation of officer-involved shootings should be revised to reduce the delay in interviewing officers. In particular, the delay should be reduced lest it hamper investigations to determine why a death occurred. The policy on reporting use of force should require that every use of force other than unresisted handcuffing be reported; even in cases of unresisted handcuffing, force should be reported if the subject complains of injury or excessive force. Active pointing of firearms should be reported as well.
- Further, the Department should adopt a use of force reporting protocol being developed by the Force and Fitness training cadre at the Washington State Criminal Justice Training Commission. This will ensure the consistent collection of all information necessary for a full review by the officer's supervisor and the Use of Force Review Board. The Department should also adopt a policy on reporting use of force should that will specify to whom the officer must report and deadlines for actions by officers and supervisors. This policy change will allow the Department and the public to hold supervisors accountable for poor investigation of uses of force and for actions to prevent excessive force in the future.

#### VI. Dealing with People Experiencing Emotional Distress or in Crisis

- Adopt clear policies on how to interact with people who are experiencing an emotional crisis, using information from the International Association of Chiefs of Police and other sources.
- Use funding from the Crisis Intervention Training bill passed by the 2015 legislature to ensure that more officers have the full CIT training. Adopt policies and training

which provide guidance on when CIT-trained officers should be deployed to respond to calls about a mentally ill subject or a person exhibiting behavior indicating a person in crisis; doing so would help prevent unnecessary use of lethal force. The Department should have a list of officers who are specially trained to de-escalate when a person is in crisis.

- Train 911 dispatchers to ask how a person is acting, and specify when that triggers dispatching CIT officers. Recruit more bilingual English-Spanish dispatchers.
- Develop meaningful partnerships with mental health providers who can care for the subject as an alternative to arrest. Explore adoption of a model crisis intervention team program, such as the ones created in San Diego, San Antonio and Los Angeles. These programs divert people with mental illness out of the criminal justice system and into community-based services.

#### VII. Bias-Free Policing

- Adopt policies that recognize both institutional and individual bias, and provide specific guidance on how to reduce such biases in police practices. Adopting a strong policy will reinforce the message from the top of the Department on down the ranks that biased policing will not be tolerated.
- Create specific training to teach officers and supervisors about implicit bias and how to recognize when an officer is acting on those biases and how harmful decisions based on bias can be.

#### VIII. Engaging the Community on Police Practices

- Create a Community Advisory Board with authority to review proposed policies in areas of greatest interest to the community, such as Use of Force, Bias-Free policing, and language access. Members should represent the diversity of Pasco, including people with limited English proficiency, people with disabilities, and people from traditionally underrepresented communities.
- Create a process for the Department to respond to input from the Community Advisory Board.
- Post on the Department's website public documents that give the public an understanding of its operations. These include its policy and procedure manual, quarterly use of force reviews, annual analysis of use of force records, and the number and types of complaints against officers.

## **IX. Ensuring Access to Police Services for Spanish-Speaking Individuals**

- Recruit, hire, and train more Spanish-English bilingual officers.
- Ensure 24-hour access to interpreters
- Train 911 dispatchers to alert officers at the time of dispatch about any English-language limitations. If possible, dispatch Spanish-speaking officers to these calls. If that is not possible, ensure that interpreters will be immediately available.
- Train officers on the public safety consequences of inadequate interpretation. For example, domestic violence investigations may be compromised if one spouse is permitted to interpret for the other. Also, Spanish speakers may not fully disclose sensitive or embarrassing information if their children are enlisted to interpret for their parents.

## **X. Receiving and Responding to Complaints from the Community**

- Create an open, transparent complaint investigation process to ensure that complaints from the public will be investigated seriously, and post information about the process prominently on the Pasco Police Department homepage.
- Create community education materials explaining the process for submitting complaints, and ensure that this information is easily accessible to community members and in Spanish as well as English.
- Publish annual reports describing the kinds of complaints received and the outcome of the investigation of those complaints.

## APPENDIX — THE INCIDENTS

### *High-profile shootings of civilians by Pasco police officers since July 2014.*

#### ***Brad Jensen, July 29, 2014***

The Pasco Police Department was called by a family member because Brad Jensen was “acting crazy,” threatening suicide and saying he wanted “suicide by cop.” Police had received and responded to previous calls about Mr. Jensen’s behavior. In those incidents, the officers were able to de-escalate the situation. His family tried repeatedly to find help for Mr. Jensen’s mental health problems, but he continued to deteriorate. On July 29, 2014, the police again responded to a call for assistance regarding Mr. Jensen. When they arrived, he walked toward the officers with a knife, swinging his arms and either ignoring or unable to understand the officers’ commands to drop the knife. Officers then fired nine rounds at Mr. Jensen and he died.

#### ***Matthew Stoddard, September 24, 2014***

Pasco police officers began pursuing Matthew Stoddard when he failed to stop for a light. After a brief car chase, he hit a curb and exited his vehicle. Police searched for 15 minutes and found him lying under a car with a gun nearby, which turned out to be a non-lethal Airsoft pellet gun. He told an officer he was going to kill himself. When Stoddard refused to follow the officer’s commands, the police fired five rounds, hitting him at least twice in the head and killing him.

#### ***Antonio Zambrano-Montes, February 10, 2015***

Antonio Zambrano-Montes’ had been struggling for weeks with an emotional crisis. He injured his hand, couldn’t work, and became distraught. Pasco Police were aware of Mr. Zambrano-Montes’s emotional struggles. Just weeks before he was killed, a distraught and unresponsive Mr. Zambrano-Montes was pulled from a burning home by Officer Adam Wright, one of the officers who later shot him to death.

On February 10, 2015, police were called to the scene because Mr. Zambrano-Montes was throwing rocks. The police spoke to him in English though they knew that he was not English language proficient and appeared to be suffering from an emotional crisis. During the initial confrontation, the police tasered Mr. Zambrano-Montes. He then walked away from the officers, trying to remove the Taser probes. Mr. Zambrano-Montes was yelling and not making sense. When Mr. Zambrano-Montes did not obey commands in English to drop the rocks that he was holding, several officers fired their guns at him and followed him as he continued to walk. When police were only a few yards away, they unloaded another volley of shots, and he crumpled to the ground, dead. Police shot a total of 17 rounds at Mr. Zambrano-Montes, five to seven of which struck him.

## FOOTNOTES

<sup>1</sup>Comments on the Police Department's policies are based on the response the Department provided to a public records request; if additional relevant records exist, they were not provided when requested.

<sup>2</sup>The Zambrano-Montes shooting has been the subject of investigations, and civil lawsuits have been filed. On September 24, the City released results of two investigations – one by police and another by an outside consultant – which concluded the shooting was justified and within departmental policy for use of force. An inquest by the Franklin County coroner is scheduled for February 23, 2016. The recommendations in this report are offered for the community's consideration regardless of the outcome of the investigations, inquest, or lawsuits.

<sup>3</sup>See <http://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/164097/doc/slpublic/tasersv2.pdf>

<sup>4</sup>Pasco Police Department Policy 1.3.2 stating: "Officers are authorized to use deadly force against any person as necessary in self-defense or the defense of another, when they have reason to believe they or another are in immediate danger of death or serious bodily injury.

-OR

Officers are authorized to use deadly force to capture or seize a dangerous suspect when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious bodily harm, and there is no reasonably safe means of preventing the suspect's escape.

-AND

When officers are about to use deadly force, they will, when feasible, issue a verbal warning to the suspect. The objective of an officer's use of deadly force is to stop a suspect from completing a potentially deadly act. When firearms are used, the officer should only fire and strike the suspect as many times as necessary to stop the suspect's dangerous actions. ...

Definitions:

A. Force: Physical action taken by an officer to assist that officer in controlling a situation or the behavior of others.

B. Serious Bodily Injury: Injury, which creates a probability of death or which, causes significant, permanent loss or impairment of the function of any body part or organ.

C. Deadly Force: The intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious bodily injury.

D. Reasonable Belief: Facts, circumstance, or knowledge present to the officer sufficient to justify a thought or feeling.

E. Necessary: No reasonably safe and effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to affect the lawful purpose intended."

<sup>5</sup>The Seattle Police Department's Use of Force Policy provides a useful template.

<sup>6</sup>Section 1.3.2 of the policy states, "Officers are authorized to use deadly force against any person as necessary in self-defense or the defense of another, when they have reason to believe they or another are in immediate danger of death or serious bodily injury." It also states, "Officers are authorized to use deadly force to capture or seize a dangerous suspect when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious bodily harm, and there is no reasonably safe means of preventing the suspect's escape." It further states, "When officers are about to use deadly force, they will, when feasible, issue a verbal warning to the suspect. The objective of an officer's use of deadly force is to stop a suspect from completing a potentially deadly act. When firearms are used, the officer should only fire and strike the suspect as many times as necessary to stop the suspect's dangerous actions."

<sup>7</sup>See Detroit consent decree with DOJ at [http://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/detroitpd\\_uofwdcd\\_613.pdf](http://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/detroitpd_uofwdcd_613.pdf)

<sup>8</sup>These points are taken from the Seattle Police Department Use of Force policy that was updated in response to the federal lawsuit and consent decree with DOJ. The Pasco Police Chief was made aware of this in a 12/17/13 email from the US Attorney's Office.

<sup>9</sup>The Las Vegas Police Department has had success reducing the number of officer-involved shootings by adopting a "reality based" use of force training program which involves giving officers experience with simulated but realistic situations they are likely to face in the field. The program gives officers practice in decision-making in such situations. 6/23/15 AP article at <http://cnsnews.com/news/article/could-training-stem-police-shootings-las-vegas-test>

<sup>10</sup>Officer training includes "Human Factors," and discusses mental states seen in combat related to how and when officers may react in

certain situations. The presentation lays out “Components of Acceptability” for use of force, including tactical, legal, and medical acceptability. It covers the “One Plus One Theory,” which states officers can use one level of force higher than the level of resistance, as part of the discussion regarding “proportional” force.

<sup>11</sup>Section 1.3.6

<sup>12</sup>See Police Union Contract “Waiting Periods” for Misconduct Investigations not Supported by Scientific Evidence, Samuel Walker July 1, 2015.

<sup>13</sup>For example, supervisors should: ensure that a medical unit reports to the scene of every use of force resulting in injury, actual or complained; conduct a thorough analysis of the incident based on all obtainable physical evidence, adequately descriptive use of force reports, witness statements, and independent investigation; resolve any discrepancies in use of force reports or witness accounts and explain and document all injuries; and complete a summary analysis regarding the reasonableness, proportionality, and legality of the force used.

<sup>14</sup><http://www.theiacp.org/portals/0/pdfs/ImprovingPoliceResponsetoPersonsWithMentalIllnessSummit.pdf> at p. 2. See also the recent report from the Treatment Advocacy Center, “Overlooked in the Undercounted: the Role of Mental Illness in Fatal Law Enforcement Encounters,” which notes, “ Severe mental illness is an identifiable factor in at least 25% and as many as 50% of all fatal law enforcement encounters.” (<http://www.tacreports.org/overlooked-undercounted> <http://www.tacreports.org/overlooked-undercounted>)

<sup>15</sup>Pasco is not alone in facing this issue; a June 29, 2015, Washington Post article describes tracking all fatal shootings by the police in 2015 and finding that nearly a quarter of the incidents involved a person who was mentally unstable. (see [http://www.washingtonpost.com/post-tv/national/officer-involved-police-shootings-of-the-mentally-ill-in-america/2015/06/29/a851528a-1eb5-11e5-a135-935065bc30d0\\_video.html](http://www.washingtonpost.com/post-tv/national/officer-involved-police-shootings-of-the-mentally-ill-in-america/2015/06/29/a851528a-1eb5-11e5-a135-935065bc30d0_video.html))

<sup>16</sup>The training database logs printed on 2/19/15 show the full roster of officers and number of hours for crisis intervention and mental health training, but the number of hours varies quite a bit from 0 to 40. There is a record showing training on developmental disabilities and mental illness, in 2007 and before, and a 2-hour course on mental health in January 2015, where officers, including those involved in the Zambrano shooting, received a certificate for attending.)

<sup>17</sup>See [http://www.theiacp.org/Portals/0/pdfs/IACP\\_Responding\\_to\\_MI.pdf](http://www.theiacp.org/Portals/0/pdfs/IACP_Responding_to_MI.pdf)

<sup>18</sup>HB 1348. Requiring crisis intervention training for peace officers. <http://app.leg.wa.gov/billinfo/summary.aspx?bill=1348&year=2015>

<sup>19</sup>See <http://www.sandiegouniontribune.com/news/2015/sep/06/police-mentally-ill-training-pert/> (describing the San Diego program); <http://www.npr.org/sections/health-shots/2014/08/19/338895262/mental-health-cops-help-reweave-social-safety-net-in-san-antonio> (describing the San Antonio program and its successful results); <http://www.npr.org/sections/health-shots/2015/07/04/419443253/la-police-unit-intervenes-to-get-mentally-ill-treatment-instead-of-jail> (describing the Los Angeles program).

<sup>20</sup>See, e.g., <http://kirwaninstitute.osu.edu/research/understanding-implicit-bias/>

<sup>21</sup>Policy Manual Section 1.1.4. This policy was apparently adopted a few days after the Zambrano shooting, on February 18, 2015, and the shooting was on February 10, 2015. See 3/5/15 email to ACLU providing the revised policy manual.

<sup>22</sup>Policy Manual Section 26.1.1.K.

<sup>23</sup>A good model is the policy for the Seattle Police Department. <http://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>

<sup>24</sup>For additional discussion of the power of community involvement in policy development, see *The Community Voice in Policing: Old Issues, New Evidence*, Samuel Walker, 2015.

<sup>25</sup>The interpreters should not be ICE or Border Patrol agents, as their use can undermine the trust of immigrant communities in local police.





[WWW.ACLU-WA.ORG](http://WWW.ACLU-WA.ORG)