

The Idaho Department of Fish and Game considers the following document to be an agency guidance document for purposes of Idaho Executive Order 2020-002. The guidance document is not new law; it is the Department's interpretation or implementation of existing law.

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IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

Revision Date: August 2015

POLICY STATEMENT

It is the Idaho Department of Fish and Game's (Department) policy that the safety of its employees and the public they serve are the highest priority; that any human life exceeds the value of any wildlife or physical property and that dispensation of punishment by employees is not part of the law enforcement function. Employees may apply legal, reasonable and necessary levels of force to perform their lawful duties, control resistive behavior and to defend themselves and others against physical aggression. Levels of force applied will not be excessive for the resistance/aggression encountered and force will de-escalate in accordance with suspect compliance with the employee's direction/actions to establish safe control. Application of force will be in compliance with the guidelines and procedures set forth in this policy.

A. PURPOSE

1. Given the Department's primary mission of protecting and managing Idaho's wildlife resources, employees will frequently interact with the public. The purpose of this policy is to provide employees with a policy to govern the use of force to control resistive behavior and/or defend themselves and others against physical aggression.
2. The Director may vary from or bypass any procedure set forth in this policy as unusual circumstances dictate.

B. POLICY DEFINITIONS

To assist employees with the proper interpretation of this policy, the following legal definitions have been provided and will apply:

1. Deadly Force will be defined as any force that is likely to, or could reasonably be, expected to cause death or serious physical injury. Displaying or aiming of a firearm is not a deadly force action.
2. Serious Physical Injury will be defined as an injury that creates a substantial and reasonable risk of death or is likely to result in permanent physical disability or disfigurement.
3. Probable Cause will be defined as a sufficient amount of information to warrant any reasonable and prudent officer to believe or entertain a strong suspicion that a person is about to, is in the act of, or has committed some type of unlawful act.
4. Assault will be defined as an unlawful attempt, coupled with apparent ability, to inflict physical injury upon another person; or an intentional, unlawful threat by word or act to do violence upon another person, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that violence is imminent.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

5. Battery will be defined as any willful and unlawful use of force or violence upon another person resulting in the intentional and unlawful touching, striking or infliction of injury upon another.
6. Employee will be defined as any classified or full-time salaried Department employee with the job classification of conservation officer or enforcement level I.

C. LEGAL AUTHORITY

1. *Idaho Code* 36-1301(a) states that all conservation officers and other classified Department employees shall have statewide jurisdiction and it is hereby made their duty to enforce the provisions of the Idaho Department of Fish and Game Code.
2. *Idaho Code* 19-610 deals with the legal levels of force that law enforcement officers (employees) may use in the normal course of their duties, and states as follows:
 - a. When the arrest is being made by an officer under the authority of a warrant or when the arrest is being made without a warrant, but is supported by probable cause to believe that the person has committed an offense, after information of the intention to make the arrest, if the person to be arrested either flees or forcibly resists, the officer may use all reasonable and necessary means to effect the arrest and will be justified in using deadly force under conditions set out in section 18-4011, *Idaho Code*.
3. *Idaho Code* 18-4011, as associated with *Idaho Code* 19-610, states as follows:
 - a. Justifiable homicide by officer - Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either:
 1. In obedience to any judgment of a competent court; or
 2. When reasonably necessary in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty, including suppression of riot or keeping and preserving the peace. Use of deadly force shall not be justified in overcoming actual resistance unless the officer has probable cause to believe that the resistance poses a threat of death or serious physical injury to the officer or to other persons; or
 3. When reasonably necessary in preventing rescue or escape or in retaking inmates who have been rescued or have escaped from any jail, or when reasonably necessary in order to prevent the escape of any person charged with or suspected of having committed a felony, provided the officer had probable cause to believe that the inmate, or persons assisting his escape, or the person suspected of or charged with commission of a felony poses a threat of death or serious physical injury to the officer or other persons.
 - b. It will be emphasized that when consent or an emergency is not present, and there is not probable cause to make an arrest or defend against aggression, the non-consensual



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

touching of another individual by an employee may constitute a crime, as well as result in civil liability. When probable cause exists to make an arrest, or defend against aggression, criminal and civil liability may still occur if the limits of the aforementioned laws are exceeded.

- c. In all cases, *Idaho Codes* 19-610 and 18-4011 clearly state that only "reasonable and necessary" force is justified to control and/or defend against resistive/aggressive behavior or to make a lawful arrest; hence, any force used by an employee in excess of what is reasonable will be unjustified and may constitute a crime.

D. LEVELS OF FORCE

1. For purposes of this policy, the use of force will be examined from two (2) perspectives, levels of resistance and levels of control. Both resistance and control may be in the form of verbal dialogue and/or physical actions.
2. Resistance will be defined as any physical/verbal action(s) directed from another individual towards an employee or another in an attempt to cause injury and/or evade, obstruct, or block the employee's attempts to take lawful control.
3. The amount and type of resistance employees may encounter will usually be determined by the resisting individual's level of intent which is seldom known. Resistance offered may range from low level resistive dialogue to an aggravated active physical attack upon the employee or another.
4. Resistance may be categorized into two (2) broad areas as follows:
 - a. Verbal resistance: Failure to comply with lawful direction makes verbal threats or assaults.
 - b. Physical resistance: Passive or defensive actions, active aggression, physical assaults/battery with or without a weapon.
5. Control will be defined as the force an employee must use to influence or neutralize unlawful physical actions or resistance of an individual who is subject to control or arrest. Generally there are four (4) situations when an employee is justified in using physical control techniques. They are to:
 - a. Stop potentially dangerous and/or unlawful behavior;
 - b. Protect himself/herself or another from possible injury or death;
 - c. Protect resisting individuals from injuring themselves (excluding the use of deadly force);
 - d. Make a lawful arrest.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

6. Force that employees may use to gain control and/or defend against resistive behavior is divided into five (5) basic categories:
 - a. Employee/officer presence (uniform, badge, authority)
 - b. Verbal direction
 - c. Empty hand control
 - d. Intermediate weapons
 - e. Lethal/deadly force
7. Once an employee determines that the use of force is necessary, the level of force used will be dependent upon:
 - a. Employee perception of the level of resistance and related danger.
 - b. Whether the resistance is placing the employee or another in jeopardy of serious physical injury or death.
 - c. The resisting individual's actions, physical stature, fighting expertise and apparent ability to carry out the proposed threat.
 - d. Employee training, experience, defensive equipment, environment or setting, knowledge of control techniques and physical ability to perform them.
8. Once an employee has initiated the use of force to control a resisting individual, he/she will be expected to de-escalate his/her level(s) of control proportionately to the resisting individual's level of compliance with the employee's direction and efforts of control.
9. Use of force justification in the judicial system is measured by two (2) broad standards. First, the use of force must be initiated by a subject's resistance and/or aggression. Second, the level of physical force used/applied is necessary and not excessive considering the type of resistance and/or aggression offered.
10. An employee may escalate the level of force as is reasonable and necessary or totally disengage if the totality of the circumstances so dictate.
11. A "Use-of-Force Continuum" has been prepared to provide employees with use-of-force terminology definitions of resistive behavior and control options to assist with the difficult process of determining what levels of force are reasonable and necessary when attempting to control or defend against resistive behavior.

E. USE OF FORCE CONTINUUM

1. Levels of Resistance



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

a. Psychological Intimidation:

1. Nonverbal actions, often called body language, will often influence employee decisions on how to approach an individual or what level of force will be used if the individual starts to resist attempts to take control. Intimidating actions may include, but are not limited to, the clenching of fists, widening of stance, clothing that makes a defiant statement, or a blank expression that may warn the employee of the individual's emotional state.
2. These actions should warn employees of the potential for violence, even when the individual has not made any verbal threats. Employee reception of an individual's nonverbal resistive intimidation signals should be used as information to mentally prepare for, and appropriately respond to, a possible physical attack. Employees who read the resistive nonverbal signals and believe that physical control is necessary to prevent the individual from injuring himself/herself, the employee or another, may initiate reasonable levels of control before the resisting individual initiates any overt aggressive actions.

b. Resistive Dialogue

Dialogue from an individual that indicates a threat of physical resistance to an employee's commands or attempts of taking physical control, are considered to be a low-level form of resistance. Dialogue in the form of threats of physical injury may influence employee opinion as to the amount of force needed and when it needs to be applied to effect control. An example of resistive dialogue would be an individual's boasting about his/her fighting skills and intentions of using them to inflict injury upon the employee or another.

c. Passive Physical Resistance

Passive resistance is the lowest level of physical resistance. At this level, a resisting individual will be non-compliant to employee direction, but never makes any attempt to defeat employee attempts to take physical control. Passive resistance is usually in the form of a relaxed "dead weight" posture intended to make employees lift, pull, or muscle the individual to establish control.

d. Defensive Physical Resistance

Defensive resistance occurs when an individual physically resists an employee's attempts to establish control by pushing or pulling away; however, the individual never attempts to strike or aggress upon the employee.

e. Physical Aggression

Physical aggression is when an individual offensively attacks an employee to defeat his/her attempts of control. The attack is a physical assault and battery upon the



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

employee or another where the offender kicks, strikes, or uses other techniques, without the aid of deadly weapons that may result in injury.

f. Aggravated Physical Aggression

Aggravated physical aggression is an offensive assault and/or battery upon an employee or another with a deadly weapon, and/or the use of techniques that present an imminent threat of death or the infliction of serious physical injury upon the employee or another. In this type of a confrontation, the employee usually must, and is totally justified in using deadly force.

F. Levels of Control

1. Employee/Officer Presence

Just the mere presence of an employee under certain circumstances can be considered a lower form of control. When an employee identifies himself/herself as an official of the law, wears an official government uniform, and/or displays a badge, he/she is in fact exercising some level of authority/control over the person(s) subject to the contact.

2. Verbal Direction

The majority of conflicts or control situations can be resolved through the use of good communication skills and verbal direction. Usually the mere presence of a uniformed employee in conjunction with appropriate verbal commands will be sufficient to persuade most individuals to follow employee direction. In any verbal confrontation, fear and anger must be defused before an individual will be able to understand employee commands; this will require the use of good communication skills and patience. Successful communication techniques will prevent most confrontations from escalating into higher levels of resistance and required control; however, if a situation does escalate where higher levels of control are necessary; employees should still attempt to utilize verbal direction or commands in conjunction with the application of any control technique.

3. Empty Hand Control

Empty hand control is control techniques that do not involve the use of any weapons or mechanical devices, (excluding handcuffs). Application of empty hand control techniques may vary from simply guiding an individual's movements, to more dynamic techniques such as wrist locks, strikes, kicks, and the application of handcuffs.

4. Soft Empty Hand Control

Soft empty hand control techniques (wrist locks, arm bar locks and pressure points) are primarily designed to control and/or defend against low levels of resistance, but may be used to control any level of resistance/aggression offered and have a minimal possibility of causing injury. Generally, these techniques are used to control passive/demonstrator and/or defensive forms of resistance.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

5. Handcuffs and Restraints

- a. Department approved restraining devices are tools provided to employees so they can effectively and safely control aggressive/resistive behavior. Restraints may be applied to detain a person when there is reasonable suspicion that the person being restrained has, is, or is about to engage in criminal activity or when an employee believes a person poses a significant threat of inflicting physical injury upon himself, the employee or others.
- b. Arrested persons, in most situations, should be restrained behind their backs. Any time restraints are applied; they should be double locked and checked for appropriate tightness.
- c. Arrested persons being transported in Department vehicles will be seat belted in the front passenger seat if the employee is transporting a prisoner alone. The proper use of restraints minimizes the danger of possible injury to restrained persons, employees, public and other individuals involved in the enforcement/detention process.

6. Hard Empty Hand Control

- a. Hard empty hand control techniques are designed to control and/or defend against high levels of defensive resistance, physical aggression, or aggravated physical aggression. These techniques may be applied when lower forms of control have failed or when an individual's level of resistance is perceived to be at a dangerous level (capable of causing injury).
- b. The use of hard empty hand control techniques will have a probability of creating soft or connective tissue damage, skin lacerations, or bone fractures. An employee's failure to utilize hard empty hand control techniques, when the level of resistance warrants their use, may cause the employee to suffer the same types of injuries or may need to utilize higher levels of control such as the use of defensive intermediate weapons.
- c. Hard empty hand techniques (strikes and kicks) may be delivered with the open hand, fist, forearm, knee, leg, or foot. Primary target points for these strikes should be the major muscle masses and nerve motor points of the legs, arms, shoulders, or side of the neck. However, it may become necessary for an employee to strike other secondary target areas such as the face, if circumstances so dictate.
- d. The use of respiratory (choke hold) neck restraints will not be used as a hard empty hand control technique unless an employee is justified in using deadly force to prevent the imminent threat of death or the infliction of serious physical injury upon himself/herself or another.

G. Defensive Intermediate Weapons

This level of control employs the use of Department-approved defensive weapons (chemical agents and impact weapons) that provide an additional method of controlling and/or defending



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

against resistive/aggressive behavior when the use of deadly force is not justified, but when empty hand control techniques are not or would not prove effective. Whenever an employee uses a defensive intermediate weapon for control it should be with the intent to temporarily disable the offender and never to create permanent injury, unless justified in the use of deadly force. The use of defensive intermediate weapons will probably produce some form of skin irritation, bruising, soft or connective tissue damage and possibly bone fractures.

H. Defensive Chemical Weapons

1. The Department-approved defensive chemical weapon is a tool that is provided to employees for controlling resistive behavior and/or defending themselves or others when empty hand control techniques are not or would not prove effective or when resistance offered is in the form of physical or aggravated physical resistance or aggression.
2. The use of defensive chemical weapons will be in strict accordance with this policy and policy E- 3.0 – Weapons Policy.

I. Defensive Impact Weapons

1. The Department-approved defensive impact weapon (baton) is a tool that is provided to employees for controlling resistive behavior and/or defending themselves or others when empty hand control techniques are not, or would not prove, effective or when resistance offered is in the form of physical or aggravated physical aggression.
2. Primary target areas for defensive-impact-weapon strikes should be the major muscle masses and nerve motor points of the legs (thighs and calves) and arms (forearms). Strikes to these areas have a low probability of producing severe injury, but create severe muscle cramping or dysfunction, which inhibits the offender's ability to continue resistance/aggression.
3. Strikes to the minor muscle masses, bones and joints of the legs and arms, and the groin area have a high probability of creating soft or connective tissue damage, or bone fractures. Therefore, strikes to these areas should be avoided if possible.
4. Defensive impact weapon strikes to any area of the head, neck, throat or clavicle will not be authorized unless an employee is justified in using deadly force to prevent the imminent threat of death or the infliction of serious physical injury upon himself/herself or another.
5. The use of impact weapons will be in strict accordance with this policy and policy E-3.0 – Weapons Policy.

J. Deadly Force

1. The Department and each of its employees have been granted powers. Employees are accountable for the manner in which these powers are exercised; this is especially true when considering the use of deadly force.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force

POLICY NO.: E-2.0

2. The laws of Idaho define deadly force as "force that is likely to cause death or serious physical injury." Most often, deadly force control involves the use of firearms, but may include the use of motor vehicles, impact weapons or hard empty hand control techniques, dependent upon application.
3. Use of deadly force will directly correspond with the legal standards set forth in *Idaho Codes* 19-610 and 18-4011. Employees are authorized to use deadly force when all other lower forms of control techniques are not, or probably would not prove, effective given the totality of the circumstances and known facts as perceived by the employee to prevent the imminent threat of death or the infliction of serious physical injury upon the employee or another.
4. Knowing when to properly use deadly force is paramount; however, just as importantly, an employee must know when the use of deadly force may jeopardize the life of an innocent bystander. Therefore, no employee will be disciplined for not using deadly force control techniques if he/she, due to the totality of the circumstances and known facts, perceives that the use of deadly force might threaten the life or safety of an innocent bystander, or is not clearly warranted by this policy.

K. Firearms

1. Department approved firearms are tools provided to employees for controlling high levels of aggressive behavior, aggravated physical aggression and/or defending themselves or others against the imminent threat of death or the infliction of serious physical injury. Firearms will be used with great restraint; their intentional discharge in a law enforcement situation to protect life will be considered the use of deadly force.
2. Employees justified in using deadly force utilizing a firearm will shoot for the center of exposed body mass, with the intent to neutralize the existing threat.
3. Employees may utilize their firearm(s) for wildlife management purposes and to destroy domestic animals that:
 - a. Present an imminent threat of death or the infliction of serious physical injury upon the employee or another.
 - b. Have been seriously injured, when the owner, if applicable, can't be located in a reasonable amount of time for alternative actions.
 - c. Pose a serious safety hazard to the public (i.e. on a slick and busy highway, on an active airplane runway, etc.).
4. Employees utilizing their firearm(s) for law enforcement purposes may:
 - a. Discharge their firearm(s) in law enforcement situations to protect themselves or others from the imminent threat of death or the infliction of serious physical injury.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

- b. The use of firearms to control resistive/aggressive behavior will also be in compliance with policy E-3.0 – Weapons Policy.

L. Motorized Vehicles/Boats

1. Department motorized vehicles/boats are generally provided to employees for job-related transportation. However, situations may arise when an employee may need to use his/her vehicle/boat to control resistive/aggressive behavior to defend himself/herself or another against the imminent threat of death or the infliction of serious physical injury.
2. If intentional vehicle contact is considered as a use of force option, employees will consider if the combination of the force factors (i.e., speeds, vehicle design, and points of contact/collision, environmental conditions, and other variable factors) can be reasonably expected to result in personal injury/property damage levels that are acceptable/reasonable for the violation(s) committed.
3. Employees will not intentionally use minor vehicle contact/collision techniques (i.e., tapping, bumping, etc.) to encourage a fleeing suspect to stop or lose control of their vehicle. If the decision is made to make contact, it should be done in a manner where one major vehicle contact/collision will probably disable/neutralize the suspect vehicle immediately. The use of motorized vehicles/boats for purposes of controlling resistive/aggressive behavior will also be in compliance with policy E-4.0 - Emergency Vehicle Operation.

M. POST USE-OF-FORCE PROCEDURES

1. Medical Considerations
 - a. Any time an employee uses force to control resistive/aggressive behavior or to defend himself/herself or another, he/she will ensure (circumstances allowing) that any individual(s) subsequently injured expeditiously receives professional medical attention. Professional medical care will be provided when an offender:
 1. Has been subjected to any use of deadly force control and sustains any injury.
 2. Has been rendered unconscious.
 3. Has been struck with any defensive impact weapon.
 4. Has been sprayed with a defensive chemical weapon.
 5. Complains of having suffered an injury, other than what appears to be minor scratches and abrasions caused by the application of handcuffs, etc., or requests professional medical attention.
 6. Mandatory medical care (as previously mentioned) will be provided to injured offenders prior to transporting to jail, regardless of any wishes they make to waive medical treatment. Offenders that refuse medical treatment in the presence of a



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

physician will be handled per paramedic/physician recommendations and full documentation of the refusal for treatment will be secured and included/attached to the employee's incident report.

N. On-Scene Procedures, Arrest and Criminal Investigation

1. Employees directly involved in a use-of-force incident will, in most cases as employee injury/critical incident stress allow, have the primary responsibility of ensuring that:
 - a. The involved offender(s) is, timely to the incident and with regard to employee safety, placed under arrest for committing the unlawful act(s) per appropriate *Idaho Code*.
 - b. The crime scene is protected for evidentiary purposes.
 - c. The offender's unlawful act(s) is investigated and presented to the appropriate court for criminal prosecution. However, employees will not act as the primary investigator when either the offender or employee used or was exposed to deadly force actions. Under these circumstances, investigations will proceed as per any regional critical incident task force MOU's that are in place and applicable along with coordination with the local law enforcement agency having primary legal jurisdiction.
 - d. They do not discuss the incident with anyone except Department supervisors/attorneys, assigned law enforcement agency investigators and prosecutors.
2. Supervisory Notifications and Reporting Requirements

Supervisory Notification

Employees involved in a use-of-force incident to control/defend against resistive/aggressive behavior involving persons or domestic animals will, as soon as possible (circumstances allowing) notify their immediate supervisor of the incident when:

- a. Deadly force techniques have been applied or a firearm has been intentionally or unintentionally discharged during employee attempts to control/defend against resistance/aggression, regardless of resultant physical injuries to persons, domestic animals and/or property damage.
- b. Use of force results in death or the infliction of serious physical injury upon the employee (survivor), the offender(s), other persons or domestic animals.
- c. Hard empty hand (strikes and/or kicks) or defensive intermediate weapon (impact and/or chemical weapon) control techniques have been applied against another person, or domestic animals regardless of resultant physical injuries and/or property damage.
- d. A motorized vehicle is used as a use of force option/tool to contact/collide with an offender/vehicle.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

- e. Immediate supervisors receiving notification of an employee's involvement in a use of force incident (circumstances allowing) will:
 1. Notify Regional Supervisors if any of the aforementioned incidents occurred.
 2. Respond to the scene of the incident if the incident requires a mandatory administrative investigation.
 3. Ensure that the local law enforcement agency with the primary jurisdiction is notified and requested to respond if any employee/person has used or was exposed to the use of deadly force. Local law enforcement agencies will coordinate criminal "Critical Incident Task Force" as outlined in any MOU's or as is appropriate to the incident.
 4. Only be required to respond to other use-of-force incidents as deemed appropriate to investigative civil liability and critical incident needs.
 5. Be responsible for initiating administrative investigations as outlined by this policy unless otherwise instructed by upper supervision.
 6. Initiate and administer policy E- 5.0 – Critical Incident Stress, as it applies to the use of force incident encountered.

O. Written Reports

1. Employees applying use of force, empty hand control (excluding handcuffing without other control methods being applied) up to and including deadly force will, as soon as reasonably possible, or as critical incident factors dictate, submit an Enforcement Action and a written narrative report to their immediate supervisor.
2. Immediate supervisors receiving use-of-force reports will review them for policy compliance, completeness/accuracy, training/remedial issues and potential liability issues. Immediate supervisors will prepare and attach appropriate comments/recommendations and will:
 - a. Forward all reports and recommendations to upper regional management.
 - b. Upper regional management will forward all Use or Force Reports to the Enforcement Bureau for policy review, future administrative, investigative and training needs.

P. Investigation and Review Procedures

1. Mandatory Administrative Investigations
 - a. A mandatory administrative investigation will be initiated any time an employee applies the use of force and:



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

1. Deadly force techniques have been applied against persons or domestic animals, intentionally or unintentionally, regardless of resultant physical injury and/or property damage.
 2. Death or the infliction of serious physical injury occurs upon an employee, the offender(s), or another.
 3. A citizen/employee complaint is received alleging employee use of excessive force.
- b. The mandatory administrative investigation will be performed under the direction of the Deputy Director.
2. The Review Board
- Review boards will be activated for all use of force incidents requiring a mandatory administrative investigation. All other use of force incidents may be reviewed as directed by the Enforcement Bureau Chief or someone in the employee's chain of supervision.
3. Review Boards shall include the following:
 - a. The Regional Supervisor from the involved officer/employee's region.
 - b. The RCO from the involved officer/employee's region. If the RCO is involved in the incident then an RCO from a different region.
 - c. The immediate supervisor of the involved officer/employee.
 - d. An Enforcement Bureau representative.
 - e. A use of force instructor from AT and firearms from the region of the officer/employee.
 - f. A Department employee designated by the employee.
 - g. Employee's Bureau Chief if the involved employee is not from the Enforcement Bureau.
 - h. Board members may serve in more than one capacity dependent upon their organizational relationship to the involved employee(s).
 4. Review boards will review and evaluate all incident-related investigative materials and direct testimony (if necessary) to determine if:
 - a. The involved employee(s) use of force was in compliance with policy.
 - b. Findings of the board will be forwarded onto the Deputy Director for further consideration.



IDAHO DEPARTMENT OF FISH AND GAME

Use of Force POLICY NO.: E-2.0

5. Supervisory/Optional Administrative Investigations
 - a. When a use-of-force incident occurs that does not require a mandatory administrative investigation (anything outside section Post Use-of-Force Procedures) supervisors may, within the required use-of-force reporting and review process, initiate an administrative investigation if they believe that the involved employee(s) has violated any Department policy.