

**ACTION**



**PLAN**

**ORANGE COUNTY  
SHERIFF**

*Sheriff Jerry L. Demings*

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## **INTRODUCTION**

On January 30, 2007, the United States Department of Justice (DOJ) informed Sheriff Kevin Beary, of its intention to investigate the use of Electronic Control Weapons (ECW), also known as Electronic Control Devices (ECDs), by the Orange County Sheriff's Office (OCSO). In August 2008, DOJ sent a Technical Assistance letter to Sheriff Beary recommending several modifications to OCSO policy, training, and accountability standards.

In November 2008, Jerry L. Demings was elected Sheriff of Orange County, Florida. Since he was sworn into office on January 6, 2009, Sheriff Demings has demonstrated a commitment to providing excellent law enforcement services, protecting the rights of citizens and deputies, and improving accountability measures.

Sheriff Demings promptly conducted a comprehensive review of the OCSO policies and training standards, to include those relevant to the usage of ECDs. Sheriff Demings proactively and voluntarily implemented significant improvements to the OCSO's policies, training standards, and accountability standards, including those specifically relevant to ECD usage. Many of those improvements were evident in amendments to the ECD General Order 8.1.8 effective May 20, 2009. Throughout the remainder of 2009 and first half of 2010, the Sheriff made additional improvements to the training standards and sought input for improvements to the ECD General Order. One such example is the Sheriff's decision to elicit input from the Orange County Medical Director on how deputies may reduce the risk of harm in responding to subjects who exhibit the symptoms of excited delirium. The Medical Director's recommendations were incorporated into OCSO policy and are reflected in the ECD General Order 8.1.8 effective May 29, 2010.

In September 2010, DOJ and Sheriff Demings entered into a Memorandum of Understanding (MOU) concluding the DOJ's investigation of ECD usage by the Orange County Sheriff's Office. Prior to signing the MOU, Sheriff Demings advised DOJ that significant revisions to policies, procedures, training standards, and accountability measures had already been implemented during his first twenty months in office. The Sheriff implemented each of these revisions intending for them to serve as a model of best law enforcement practices regarding ECD usage. DOJ recognized the Sheriff's prompt and proactive steps to implement meaningful changes to OCSO policies, training, and accountability measures, many of which were recommended in the

Technical Assistance letter issued by DOJ to Sheriff Kevin Beary on August 20, 2008. Although Sheriff Demings regularly updated DOJ on revisions implemented since he became Sheriff, DOJ maintained it needed to verify whether those revisions were, in fact, implemented.

Pursuant to Section V. of the MOU between DOJ and Sheriff Demings, the Sheriff agreed to submit an Action Plan to the DOJ specifying the measures already taken to achieve substantial compliance with the substantive requirements of Section III of the MOU. Each of the provisions below corresponds to the specific sections and subsections of Section III of the MOU.

## GENERAL ORDER 8.1.8

A. OCSO ECW POLICY: the Sheriff shall demonstrate substantial compliance with the following:

1. Constitutional Standard: OCSO agrees to develop and implement an ECW policy that explains Fourth Amendment standards regarding the use of force, specifically stating that ECW deployment be reasonable in light of the facts and circumstances surrounding the deployment.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. General Order 8.1.6 (Use of Force) has historically included language requiring deputies to comply with applicable state and judicial standards, to include cases interpreting the Fourth Amendment to the United States Constitution. Additionally, General Order 8.1.8 (Electronic Control Devices) has included language requiring deputies to use only the level of force that is objectively reasonable to perform their official duties. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 29, 2010. These revisions specifically included a reference to “Fourth Amendment standards.” More specifically, the language appearing in General Order 8.1.8, paragraph 2 states:

It is the policy of the agency that personnel performing official duties shall comply with applicable law, and specifically Fourth Amendment standards, by using a level of force that is reasonable in light of the surrounding facts and circumstances. Electronic control devices (ECD) have been proven effective and are authorized for use in appropriate circumstances by trained personnel.

Current versions of General Order 8.1.6 and 8.1.8 appear in the Appendix.

2. Verbal Warnings: OCSO agrees to develop and implement an ECW policy that requires that deputies give a verbal warning prior to ECW deployment, unless exigent circumstances exist or the verbal warning would place an individual at risk.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 20, 2009, June 19, 2009, and May 29, 2010. Each revision to General Order 8.1.8 specifically included language requiring deputies to give verbal warnings prior to ECD deployment, unless exigent circumstances exist or the verbal warning would place an individual at risk. More specifically, the language appearing in General Order 8.1.8, paragraph 4.C.8 presently states:

8. In preparation of deployment, the ECD shall be pointed in a safe direction, taken off safe, and then aimed. Absent exigent circumstances:
  - a. A verbal warning shall be given unless doing so would place an individual at risk.

A current version of General Order 8.1.8 appears in the Appendix.

3. ECW Deployment Against Certain Subjects: OCSO agrees to develop and implement an ECW policy that addresses the deployment of the ECW against the following:
  - (a) Fleeing Subjects: OCSO agrees to develop and implement an ECW policy that states that a subject's flight should not be the sole justification for deploying the ECW. OCSO ECW policy shall further instruct that prior to deploying the ECW against a fleeing subject, the deputies should consider such factors as:
    - (1) the severity of the offense;
    - (2) any immediate threat to the safety of the deputy or others posed by the subject; and,
    - (3) the ability of the deputy to safely effectuate the arrest without ECW deployment.
  - (b) Passive Subjects: OCSO agrees to develop and implement an ECW policy that prohibits the deployment of the ECW against passive subjects.
  - (c) Restrained Subjects: OCSO agrees to develop and implement an ECW policy that prohibits ECW deployment against handcuffed or otherwise restrained subjects, unless the restrained subject is endangering the safety of the deputy or others by effectively attempting to employ physical force against the deputy or others.
  - (d) Vulnerable Subjects: OCSO agrees to develop and implement an ECW policy that prohibits, absent exigent circumstances, deployment of the ECW against the following subjects, or under the following circumstances:
    - (1) in an environment where the subject's fall may cause substantial injury or death (e.g., an elevated location such as rooftop or building ledge; standing in or near water or other drowning hazards; or climbing a fence or wall);
    - (2) against a subject in physical control of a vehicle in motion, including a bicycle;
    - (3) against an apparently helpless person or an individual with an apparent severe disability;
    - (4) against a reasonably apparent young child;
    - (5) against a reasonably apparent elderly person;
    - (6) against a female person reasonably believed to be pregnant;
    - (7) within an elementary school.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 20, 2009, June 19, 2009, and May 29, 2010. Each revision to General Order 8.1.8 specifically included language addressing deployment in situations involving Fleeing Subjects, Passive Subjects, Restrained Subjects, and Vulnerable Subjects. More specifically, language appearing in General Order 8.1.8, paragraph 4.C.1.b addresses, Fleeing Subjects; paragraph 4.C.1 addresses Passive Subjects; paragraph 4.C.5 addresses Restrained Subjects; and paragraph 4.C.1.a.1 and 2., as well as paragraphs 4.C.6 and 7 address Vulnerable Subjects. The relevant language from each paragraph is set forth below.

Fleeing Subjects (paragraph 4.C.1.b)

- b. A subject's flight should not be the sole justification for ECD deployment. Additional factors must be considered.
  1. Additional factors that must be considered when making use of force decisions include:
    - a. Subject Factors:
      1. Seriousness of crime committed by subject.
      2. Size, age, and weight of subject.
      3. Apparent physical ability of subject.
      4. Number of subjects present who are involved, or who may become involved.
      5. Weapons possessed by or available to the subject.
      6. Known history of violence by subject.
      7. Presence of innocent or potential victims in the area.
      8. Whether the subject can be recaptured at a later time.
      9. Whether evidence is likely to be destroyed.
      10. Indicators of attack exhibited by the subject such as but not limited to; verbalization of a hostile/aggressive intent, hostile/aggressive posturing, muscular tensing of the body, etc.
    - b. Deputy Factors:

1. Size, physical ability, and defensive tactics expertise of the deputy.
  2. Number of deputies present or available.
  3. Immediate reaction in the case of sudden attack.
  4. Weapons or restraint devices available to the deputy.
  5. Legal requirements.
  6. Agency policy.
  7. Environment.
- c. The above listed subject and deputy factors are not all inclusive. Any and all determining factors must be properly articulated by the deputy(s) employing physical force.

Passive Subjects (paragraph 4.C.1)

C. Deployment

1. Subject to the conditions below, the ECD may be used when level 4 (Active Physical Resistance) or higher resistance is encountered.

Restrained Subjects (paragraph 4.C.5)

C. Deployment

5. Deployment of the ECD is authorized on handcuffed, or otherwise secured subjects who present a Level 5 (Aggressive Physical Resistance) or higher, unless exigent circumstances exist.

Vulnerable Subjects (4.C.1.a.1 and 2., and paragraphs 4.C.6 and 7)

1. ECD deployment may increase the risk of death or serious injury in certain circumstances, such as loss of balance, falls, change in momentum, drowning, or loss of control of any mode of transportation, conveyance or machinery.
2. Absent exigent and articulable circumstances justifying ECD deployment, deputies should not deploy an ECD:
  - a. in elementary schools;
  - b. on young children;
  - c. on the elderly;

- d. on females reasonably believed to be pregnant;
- e. on individuals with apparent physical disabilities impairing their mobility;
- f. on individuals who may fall from an elevated position causing substantial injury or death (e.g., rooftop, overpass, high above ground level); and
- g. individuals in water.

Deputies should evaluate and consider other options such as verbal commands, hands on techniques, OC spray, etc.

- 6. The ECD should not be used in any environment where potentially flammable, volatile, or explosive material (gasoline, natural gas, propane, flammable chemical sprays, etc.) are present.
- 7. The ECD shall not be used against subjects in physical control of a motor vehicle in motion (i.e.: vehicles, motorcycles, scooters, boats, bicycles) unless exigent and articulable circumstances exist.

In addition to changes appearing in General Order 8.1.8 effective May 20, 2009, the Sheriff's Training Division produced and issued a training video in June 2009 which was viewed by all sworn personnel. The video addressed amendments to General Order 8.1.8, including deployments involving fleeing subjects, passive subjects, restrained subjects, and vulnerable subjects.

A current version of General Order 8.1.8 appears in the Appendix.

4. Prohibited Uses of the ECW: OCSO agrees to develop and implement an ECW policy that prohibits reckless and careless use and storage of the ECW.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 20, 2009, June 19, 2009, and May 29, 2010. The revisions to General Order 8.1.8 specifically included language prohibiting reckless and careless use and storage of the ECD. More specifically, language appearing in General Order 8.1.8, paragraph 4.C.3 states:

3. The ECD shall not be used in a punitive or reckless manner. Some examples are:
  - a. Using or threatening to use the ECD during an interrogation.
  - b. Using the ECD to awaken a person.
  - c. Using the ECD as a “Prod.”

A current version of General Order 8.1.8 appears in the Appendix.

5. ECW Deployment Practices: OCSO agrees to develop and implement an ECW policy that mandates, absent exigent circumstances:
  - (a) only one deputy at a time deploy an ECW against a subject;
  - (b) deployment of the ECW for no more than one standard cycle before stopping to evaluate the situation;
  - (c) use of the “drive stun mode” only as a secondary option;
  - (d) prohibition of restraint techniques that will impair a subject’s respiration after the subject has been exposed to an ECW deployment.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 29, 2010. The revisions to General Order 8.1.8 specifically included language mandating, absent exigent circumstances, only one deputy deploy at a time, deputies evaluate the situation before deploying for a second cycle, drive stun mode may be used as a secondary option, and deputies should use restraint techniques that do not impair a subject’s respiration. More specifically, language appearing in General Order 8.1.8, paragraph 4.C.8.b., c. and d., and paragraph 4.C.9. state:

8. In preparation of deployment, the ECD shall be pointed in a safe direction, taken off safe, and then aimed. Absent exigent circumstances:
  - b. only one deputy at a time shall deploy an ECD against a subject;
  - c. if present, a second deputy shall provide cover; and
  - d. the ECD may be used in a “drive stun” mode as a secondary option. (This involves pressing the unit against an appropriate area, with or without the cartridge, based on training.)
9. Deputies will continually assess submission/compliance and breathing ability before applying additional cycles of the ECD. Deputies shall attempt to secure the subject under power as soon as practical. Deputies should apply restraint techniques consistent with General Order 8.1.3 and subjects should be closely monitored for signs or complaints of distress indicating asphyxia.

A current version of General Order 8.1.8 appears in the Appendix.

6. Supervisor Responsibilities: OCSO agrees to develop and implement an ECW policy that requires supervisors to:
- (a) be trained in usage of the ECW, and supervision of others who use the ECW;
  - (b) respond to the scene of every ECW discharge (intentional or unintentional) involving a deputy/suspect confrontation or when a deputy or third party is contacted by the ECW, absent exigent circumstances, such as dangerous conditions at the scene of the ECW discharge;
  - (c) evaluate all ECW deployments by a deputy, to include review of:
    - (1) interviews of the deputy, the subject, and other witnesses;
    - (2) all relevant use-of-force reports;
    - (3) photographs of all relevant evidence, including, when possible, impact points of the ECW probes before and after removal from the subject; and,
    - (4) a sample of the AFID confetti from the ECW cartridge.
  - (d) complete a written report of findings following each assessment of ECW deployment;
  - (e) ensure that the deputy places the spent ECW cartridge and probes into evidence control;
  - (f) secure and review any in-car video if so equipped;
  - (g) instruct deputies to produce the ECW to PSS or Material Control/Supply in order for PSS or Material Control/Supply to download the ECW deployment data to assess the time of the deployment, the number of deployments, and the duration of each deployment; and,
  - (h) ensure that if upon the supervisor's review a violation of law or policy is suspected, the supervisor's use-of-force report should be immediately forwarded to PSS for investigation.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 20, 2009, June 19, 2009, and May 29, 2010. The early revisions to General Order 8.1.8 specifically included language mandating supervisory response to applicable ECD deployments and completion of the defensive tactics report. More comprehensive amendments effective May 29, 2010, included language ensuring collection of relevant evidence,<sup>1</sup> downloading of ECD data, and ensuring

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<sup>1</sup> OCSO does not use in-car video.

that corrective action, if appropriate, is pursued. More specifically, language appearing in General Order 8.1.8, paragraphs 4.H. and 4.I. state:

#### H. Reporting and Accountability

Deputies shall notify their supervisor as soon as practical after each intentional or unintentional discharge, with the exception of function pre-operation spark tests conducted at the beginning of a shift and training exercises. A supervisor is only required to respond to unintentional discharges involving a deputy/suspect confrontation or when a deputy or third party is contacted by the ECD. For all other unintentional discharges, the deputy's supervisor is not required to respond, but shall ensure the deputy completes the Defensive Tactics/K-9 Form and forwards it to the supervisor by the end of the deputy's shift. The supervisor has discretion to allow additional time for completion of the Defensive Tactics/K-9 Form.

In use of force situations involving a deputy/suspect confrontation, a supervisor shall respond to the scene of every discharge and conduct a review of the deployment to ensure compliance with agency policy. If the supervisor is unable to respond to the scene, or concludes that personnel should leave the scene due to operational or safety concerns, the supervisor shall document the reasons which made it impractical to respond or obtain witness statements. The supervisory review should include:

1. speaking with the involved deputy;
2. speaking with the suspect to ascertain any medical needs;
3. ensuring witness statements (verbal or written) are obtained and/or reviewed;
4. ensuring photographs are taken of significant injuries and impact points, if possible;
5. ensuring ECD evidence (cartridges, probes and wires, and AFIDs) is collected; and
6. reviewing the information and the ECD data once obtained.

If the supervisor has reason to believe that a violation of agency policy has occurred that could result in discipline, the supervisor shall adhere to General Order 5.1.2.

The responding supervisor shall ensure that the Defensive Tactics/K-9 Form is completed and forwarded through the deputy's chain of command for review. The Defensive Tactics/K-9 Form, including all documentation obtained during the supervisor's review, shall be forwarded to Professional Standards and a copy sent to Training.

#### I. Downloading Data

The data port on the ECD stores the time and date the ECD was deployed and helps improve the accuracy of incident documentation.

1. Within three business days, excluding holidays and weekends, following an ECD deployment, a deputy shall report to Material Control/Supply to obtain a new cartridge, if necessary, and so the information from the data port can be downloaded and forwarded to the deputy's supervisor for review. The supervisor has discretion to allow additional time for the deputy to report to Material Control/Supply, but the reasons shall be documented in the Defensive Tactics/K-9 Form. The deputy's supervisor shall ensure the data download from the ECD is received, reviewed and attached to the Use of Force/K9 Report Form.

A current version of General Order 8.1.8 appears in the Appendix.

7. Medical Responses: OCSO agrees to develop and implement an ECW policy that instructs deputies:
  - (a) to notify emergency medical personnel under circumstances when it is anticipated that the deputy will deploy the ECW against a subject and there is adequate time to notify and stage emergency medical personnel (e.g. cases of suspected “excited delirium”); and,
  - (b) to ensure that subjects receive a post-deployment medical evaluation.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff amended General Order 8.1.8 (Electronic Control Devices) effective May 29, 2010. The revisions to General Order 8.1.8 specifically included language instructing deputies to notify emergency medical services, if feasible, when ECD deployment will likely occur and the subject is believed to be suffering from excited delirium or an extreme mental or physiological state requiring expeditious transport to a hospital emergency department. The language also indicates that removal of ECD probes must be done by emergency medical personnel under certain circumstances. More specifically, language appearing in General Order 8.1.8, paragraph 4.D. and 4.G. states:

4.D. Excited Delirium

Excited delirium is a medical emergency that requires prompt medical treatment in a hospital emergency department. Due to the extreme state of mental and physiological excitement, deployment of an ECD may be needed to gain control of a subject with suspected excited delirium. In this scenario the deputy shall request emergency medical services (EMS) prior to deployment if circumstances permit. Once control of the subject is achieved, expeditious transport to a hospital emergency department shall be provided by EMS. Deputies should refer to Training Bulletin 95-11 for additional information about excited delirium.

4.G.2. Remove the ECD probes at the earliest opportunity. The ECD probes shall be removed in accordance with agency approved training. ECD probes that have struck the face, groin, female breasts, or male nipple area must be removed

by properly trained medical personnel. When probes are located in these areas the deputy shall request EMS for transport to a hospital emergency department.

4.G.4. Request emergency medical services to provide medical treatment and transport if the subject shows signs of injury, complains of a medical emergency, or requests medical treatment after the deployment.

A current version of General Order 8.1.8 appears in the Appendix.

## **ECD TRAINING STANDARDS**

- B. OCSO ECW TRAINING:** the Sheriff shall demonstrate substantial compliance with the following:
8. OCSO agrees to continue its practice of only issuing ECWs to deputies during the ECW training course to ensure that no deputy shall be issued an ECW without having attended the ECW training course.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. Since Sheriff Demings began his term as Sheriff on January 6, 2009, deputies have been required to attend ECD training prior to issuance of an ECD. The OCSO provides deputies with an 8 hour new user certification training course. The Sheriff intends to continue providing new user certification training courses. The next 8 hour new user certification training course is offered on September 22, 2010.

A copy of the lesson plans for New User ECD Training appears in the Appendix.

9. OCSO agrees to not rely solely upon the ECW manufacturer's printed and electronic training materials. OCSO shall develop and implement its own training materials; scenario-based deployment and arrest drills; and testing procedures to best develop the ECW knowledge and skills of its deputies as tailored for the needs of OCSO.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The OCSO Training Division uses the ECW manufacturer's printed and electronic training and testing materials, but has also developed and implemented its own training materials, scenario-based deployment and arrest drills, and performance evaluation procedures. The Sheriff intends to continue this practice.

The Sheriff's Training Division has consistently provided annual block training to all sworn law enforcement personnel during which defensive tactics and proper usage of the ECD is addressed. The Training Division also provides an 8 hour new user certification course prior to issuing an ECD to a deputy. Additionally, prior to May 29, 2010 (the effective date of the recent amendments to General Order 8.1.8), the Training Division conducted training sessions for all sworn law enforcement personnel addressing each of the amendments.

The Training Division also publishes newsletters and videos when it is appropriate to inform agency personnel regarding new policies, procedures, or concerns related to ECD usage.

The next 8 hour new user certification training course is offered on September 22, 2010. An Annual Block training session addressing defensive tactics will occur on September 23, 2010.

Any records relevant to this provision can be reviewed at the Sheriff's Training Section.

10. OCSO ECW training courses shall be conducted with an appropriate level of seriousness and professionalism.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Training Division conducts training sessions with an appropriate level of seriousness and professionalism. Three members of the Training staff have achieved certification as Master Taser Instructors.

The ECD instructor's credentials are set forth in greater detail below:

**Lieutenant Richard Meli**

Lieutenant Richard Meli has been with the Orange County Sheriff's Office for 21 years and has acquired diverse experience working in several areas of the agency such as Uniform Patrol, Narcotics, Tactical Units, and the Mountain Bicycle Unit. Lieutenant Meli's experience includes 15 years with the agency's part time SWAT Team where he held the position of Team Leader and Counter Sniper. He is currently assigned to the Training Division where he is responsible for the administration of the Firearms and Driving Ranges and for the Professional Development training provided to agency employees. He is certified by the Florida Department of Law Enforcement to instruct general topics and firearms (Certified Instructor, Criminal Justice Standards & Training Commission).

Lieutenant Meli is an instructor in the following areas: Taser Technician/Evidence Certification; Master Taser Instructor and Taser Instructor; Firearms Instructor (CJI); Instructor Techniques Certification (CJI); ILEETA Conference and Instructor Courses; Ultimate Training Munitions Instructor Certification; Ethics Instructor; CPR Instructor Certification; Automated Reporting System Instructor; ACISS Instructor; Sub-gun Instructor Certification; SWAT Tactics Instructor.

In addition to in-service training offered through the agency, Lieutenant Meli has attended additional training courses throughout his tenure with the agency. Examples of those courses include: Principles of Police Supervision; Glock Armorer School; How to Manage a Training Unit; Leadership Class – Leading up, Down and Out; DEA Basic Narcotics School; WMD Tactical Commander Course; Suicide Bombers Prevention and Response; Tactical Command/Major Incident; Maine Criminal Justice Academy - Basic Corrections School; Money

Laundrying School; Terrorism – Methods of Operation; Tactical Narcotics School; Access 2000 Level I; Terrorism Awareness; Incident Command System; Drug Net Certification; Search and Seizure; LEO Flying Armed; Civil Liability for SWAT; Bus Assault for Hostages; NTOA Eastern Conference; Counter Sniper; Advanced MP5 Operator; 3 Day Hostage Rescue Training; Emergency Response to Terrorism; Mental Preparation for Armed Confrontation; Hummer Basic Operators Course; Designer and Club Drug Recognition; Virginia Beach Police Counter Sniper School; Intermediate Police Sniper; Def. Tech Distraction Device Certification; Tactical Rifle Training; Street Survival; Vehicle Assaults and Hostage Rescue; Basic Mountain Bicycle School; Dignitary Protection; Introduction to SWAT Tactics; Street Gangs and Gang Violence; Civil Disorders Management; Criminal Law; Limited Access Terminal Operator; Narcotics Identification/ Investigation; Team Building Workshop; Radar Operator Certification; Field Training Officer; Semi Automatic Handgun.

Lieutenant Meli has an associate's degree in criminology and attended J.C. Stone Memorial Law Enforcement Academy for his law enforcement certification.

### **Sergeant Isaac R. Lopez**

Sergeant Isaac R. Lopez has been with the Orange County Sheriff's Office in Orlando, Florida for over 19 years and has more than thirteen years of tactical experience with the agency's part-time team. As a former assistant team leader with SWAT, his experience includes high-risk search warrants, barricaded subjects and hostage situations. He is currently assigned to the firearms range with the Training Division. Sergeant Lopez is certified by the Florida Department of Law Enforcement to instruct general topics along with defensive tactics and firearms. Sergeant Lopez also holds certifications in Master Taser Instructor, Taser Armorer, Taser Evidence Collection, less-lethal projectiles, police rifle Instructor, submachine gun, and shoot house training. He is an Armorer for Remington, H&K UMP Sub gun, Glock handguns. Sergeant Lopez has also worked various dignitary protection and security details.

Sergeant Lopez became a member of the SWAT Round-Up International board in 2006. He plans and organizes the week's training courses for SWAT operators who attend from around the world and has created

several events for the competition. He is also a special consultant for the King Abdullah II Special Operations Training Center in Jordan. He is a member of ILEETA and an NRA tactical instructor.

Sgt. Lopez has a Bachelor of Science in Criminology from Florida State University.

**Deputy Thomas Cocchi**

Deputy Thomas Cocchi has been with the Orange County Sheriff's Office in Orlando for 20 years. Deputy Cocchi is an experienced instructor and has been a member of the Training Division for 13 years.

Deputy Cocchi is certified by the Florida Department of Law Enforcement to instruct general topics. Deputy Cocchi is a certified instructor in the following areas: Taser instructor; Master Taser Instructor; Taser technician course and Taser evidence course; Defensive Tactics Instructor; Firearms and General subject's instructor to teach at state level; Rifle, Shotgun and Sub machine gun instructor; Less lethal master instructor; F.B.I certified bomb technician; Weapons of mass destruction and Hazmat instructor; CPR instructor; Chemical weapons instructor; Simunitions and shoot-house instructor; law enforcement master scuba diver; ethics instructor; armorer for Remington, Colt M-16, H&K UMP sub machine gun, Glock and Beretta Handguns..

Deputy Cocchi has an Associates Degree in Liberal Arts and is a 9 year veteran of the United States Navy.

11. OCSO ECW training shall incorporate practical scenario-based training exercises to drill deputies on ECW deployment skills. For example, deputies shall be instructed, drilled, and tested on how to:

- (a) give a verbal warning to the subject and other deputies;
- (b) work together with other deputies as a team;
- (c) provide cover, and how to arrest under force;
- (d) deploy a standard cycle and assess the situation;
- (e) recognize symptoms of mental illness and “excited delirium;” and,
- (f) stage emergency medical services in cases where ECW deployment is predictable.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff’s Training Division has incorporated practical scenario-based exercises into the training sessions. Deputies receive instruction, drilling, and performance evaluation on such things as:

- a. Giving verbal warnings;
- b. Working together as a team;
- c. Providing cover and arresting under force;
- d. Deploying a standard cycle and assessing the situation;
- e. Recognizing symptoms of mental illness and excited delirium;
- f. Requesting emergency medical services when it is practical and consistent with OCSO policy.

Any deficiencies noted during the performance evaluation will be immediately addressed through remedial training.

The Sheriff intends to continue providing training courses which include practical scenario-based training exercises to drill deputies on ECD deployment skills.

A copy of the training lesson plans appear in the Appendix.

12. OCSO agrees to develop and implement ECW training dedicated to supervisor response and incident review. The course material shall cover such aspects of supervisor response and incident review as:
  - (a) conducting interviews with the deputy, the subject, and other witnesses;
  - (b) completing a use-of-force report;
  - (c) photographing all relevant evidence, including impact points of the ECW probes before and after removal from the subject; and,
  - (d) collecting a sample of the AFID confetti from the ECW cartridge.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. Prior to May 29, 2010 (the effective date of the recent amendments to General Order 8.1.8), the Training Division conducted training sessions for all sworn law enforcement personnel addressing each of the amendments. All sworn personnel, including supervisors, were required to attend the training. At that time, the supervisors received general instruction on the policy amendments requiring supervisory response following ECD deployment, conducting witness interviews, completing the use-of-force report, photographing relevant evidence, and collecting a sample of the AFID confetti.

Beginning August 20, 2010, the Sheriff's Professional Standards Section commenced training sessions for sworn supervisors. These training sessions provide instruction on the proper completion of the Use of Force Form, the Responding (on-scene) and Reviewing Supervisors' responsibilities following an ECD deployment, and the Sheriff's expectations regarding the documentation and review.

The Sheriff intends to continue providing supervisors with training, as necessary, to ensure appropriate supervisor response and incident review.

A copy of the lesson plans for the supervisor's training which commenced on August 20 appears in the Appendix.

13. OCSO ECW training instructors shall explain the risks involved in deploying the ECW, specifically against subjects under the influence of drugs or exhibiting behaviors associated with “excited delirium.” OCSO ECW training instructors shall provide examples from actual cases in which subjects received serious injuries as a direct or indirect result of an ECW deployment.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff’s Training Division developed annual Block training sessions addressing the risks involved in ECD deployment, including risks addressed in the relevant provisions of General Order 8.1.8. More specifically, the training sessions cover risks associated with ECD deployment including, but not limited to, falling, excited delirium, and other vulnerable subjects.

The Sheriff intends to continue providing training sessions which explain the risks involved in deploying the ECD.

A copy of the lesson plans for the annual Block training appears in the Appendix.

## ACCOUNTABILITY

- C. **OCSO ECW ACCOUNTABILITY PROCESSES:** the Sheriff shall demonstrate substantial compliance with the following:
14. PSS shall track ECW use in its EIS database and use EIS alert functions to identify trends in ECW deployments.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff's Professional Standards Section has been tracking ECD usage in its Early Identification System (EIS) database since June of 2009. The EIS is intended to serve as a proactive, non-disciplinary system for enhancing awareness by employees, supervisors, and managers of potential employee problems before serious events occur. For example, all employees who have been involved in four intentional ECD deployments towards a subject within the preceding three months will be identified and documented in the EIS Notification Report. When an employee is identified by the EIS, the employee's immediate supervisor will be notified by the Professional Standards Section by memorandum via chain of command with the appropriate documentation attached. They shall complete a review within 30 days of receipt of the documentation from Professional Standards. The supervisor is required to meet with the employee and present the findings to the chain of command. If a corrective action plan is warranted, the plan will be included with the materials returned to Professional Standards.

General Order 17.1.3 which includes the procedures related to the EIS is set forth in the Appendix. Any records relevant to this provision can be reviewed at the Sheriff's Professional Standards Section.

15. OCSO will continue to use its use of force form that records ECW information, including:
- (a) the serial number of the ECW and ECW cartridge;
  - (b) information regarding the deployment (e.g. unholstered only, unholstered and deployed and hit or missed target);
  - (c) distance from subject, environment, physical and weather conditions of the location;
  - (d) number of cycles deployed;
  - (e) whether a drive-stun was employed;
  - (f) a description of the resistance demonstrated by the subject;
  - (g) statements from the subject;
  - (h) injuries and medical care provided;
  - (i) names of witnesses;
  - (j) type of crime involved; and,
  - (k) type of clothing worn by subject.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. OCSO has consistently required deputies to complete a use of force form (also known as a Defensive Tactics (DT) form). The OCSO's Use of Force form requires deputies and supervisors to input significant detail pertaining to the deployment including, but not limited to, the following information:

- (a) the serial number of the ECD and ECD cartridge;
- (b) information regarding deployment such as whether the deputy hit or missed the target;
- (c) the approximate distance of the subject;
- (d) the number of activations (cycles);
- (e) whether a drive stun was used;
- (f) the subject's resistance level and the deputy's response level;
- (g) whether the suspect was questioned regarding injuries;
- (h) if the subject was injured, whether photographs were taken of the injuries, the emergency medical response, and the treatment, if any;
- (i) names of witnesses;
- (j) the type of crime involved; and
- (k) the type of clothing worn by the subject.

The deputy's supervisor is required to determine whether the deployment was consistent with OCSO policy by conducting a review of the form, the downloaded ECD data, the incident or arrest reports, and any other relevant materials. The completed Use of Force form is forwarded to PSS. PSS will return the form to the deputy and the chain of command and request any additional details necessary to determine whether the use of the ECD was consistent with General Order 8.1.8.

A copy of the Use of Force form appears in the Appendix.

16. PSS shall investigate all ECW cases in which:
  - (a) the subject dies or suffers serious bodily injury after deployment of the ECW;
  - (b) a subject is subjected to prolonged or excessive cycling of the ECW;
  - (c) the ECW appears to have been used in a punitive or abusive manner;
  - (d) there appears to be a material deviation from OCSO ECW policy.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. The Sheriff's Professional Standards Section will continue to investigate ECD cases in which:

- (a) the subject dies or suffers serious bodily injury after deployment of the ECW;
- (b) a subject is subjected to repetitive and unnecessary cycling of the ECD which is inconsistent with General Order 8.1.8;
- (c) the ECD appears to have been used in a punitive or abusive manner;
- (d) there appears to be a material deviation from OCSO ECD policy.

Any records relevant to this provision can be reviewed at the Sheriff's Professional Standards Section.

17. PSS or Material Control/Supply shall download the data from an ECW after every ECW deployment other than spark tests.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. As a result of amendments to General Order 8.1.8, paragraph 4.I.3., “Only personnel assigned to Professional Standards or Material Control/Supply may download the information from the data port.”

Additional amendments to General Order 8.1.8, paragraph 4.I.1 require a deputy to report to Material Control/Supply within three business days following deployment so the information from the data port can be downloaded and forwarded to the deputy’s supervisor for review. The supervisor has discretion to allow additional time for the deputy to report to Material Control/Supply, but the reasons shall be documented in the Defensive Tactics/K-9 Form. The deputy’s supervisor shall ensure the data downloaded from the ECD is received, reviewed and attached to the Use of Force/K9 Report Form.

OCSO determined that Material Control/Supply was the best location for the download to occur since new cartridges could be issued at the same time, if necessary. Pursuant to General Order 8.1.8, paragraph 4.I.2., additional downloads will occur during the deputy’s annual inventory at Material Control/Supply and prior to any factory repairs/maintenance.

18. PSS shall conduct random audits of the ECW deployment data.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. General Order 8.1.8, paragraph 4.J. states:

J. Random Audits

Performing random audits of information/data downloaded from a deputy's ECD and comparing it with the Defensive Tactics/K-9 Form improves accountability.

1. Every quarter, Professional Standards shall randomly select 5% of the deputies who are assigned an ECD.
2. Professional Standards shall perform an audit consisting of the following:
  - a. directing the deputy to report to Material Control/Supply to download the ECD data; and
  - b. reviewing the ECD data for:
    1. activations inconsistent with daily spark tests or previously documented use of force incidents;
    2. activations lasting ten seconds or longer in duration; or
    3. three or more consecutive activations with minimal time between the activations.
3. Professional Standards shall ensure the activations are consistent with agency policy and recommend or take appropriate action if any deficiencies are identified (i.e. additional training, counseling, or investigation).

The Sheriff's Professional Standards Section has conducted random audits consistent with General Order 8.1.8. The results of those random audits and other records relevant to this provision can be reviewed at the Sheriff's Professional Standards Section.

19. All civilian complaints regarding ECW use shall be forwarded to PSS, assigned a tracking number, and investigated appropriately by PSS or a line supervisor, as determined by PSS, who is not a subject of the complaint.

**ACTION PLAN:** The Sheriff has achieved compliance with this provision. Professional Standards, or a line supervisor when applicable, shall be responsible for investigating civilian complaints pertaining to ECD deployments about an alleged act or omission by agency personnel which, if substantiated, would constitute a violation of law or agency policy. PSS will investigate allegations of excessive force pertaining to ECD deployments.

Additionally, the Sheriff affords members of the public several avenues for filing complaints. They may file complaints by:

- Contacting the Professional Standards Section by phone at 407-254-7441;
- Completing the Citizen's Complaint Form on the [www.OCSO.com](http://www.OCSO.com) website and submitting it electronically, printing and faxing it to the Orange County Sheriff's Office Professional Standards Section at 407-254-7453; or
- Delivering the completed Citizen's Complaint Form in person or by mail to:

Orange County Sheriff's Office  
Office of Professional Standards  
2500 West Colonial Drive  
Orlando, FL 32804  
407-254-7441

The Citizen's Commendation/Complaint Form is included in the Appendix and can also be accessed directly at:

<http://www.ocso.com/OfficeoftheSheriff/OfficeoftheUndersheriff/ProfessionalStandards/CommendorComplainaboutanEmployee/tabid/200/Default.aspx>

The results of any excessive force investigations pertaining to ECD deployments relevant to this provision can be reviewed at the Sheriff's Professional Standards Division.

## CONCLUSION

Sheriff Demings remains committed to delivering the highest level of law enforcement services available, protecting the rights of citizens and deputies, and improving accountability measures. He firmly believes you will be impressed with the actions of the Orange County Sheriff's Office and its highly trained, motivated, and dedicated professionals.

Should you have any questions or concerns prior to your arrival to our facilities, please feel free to contact Eric Dunlap, Assistant General Counsel, at (407) 254-7170, or [Eric.Dunlap@ocfl.net](mailto:Eric.Dunlap@ocfl.net).

We look forward to meeting with you in the near future.