Minnesota Department of Corrections

Policy Number:	**301.157**
Title:	**Emergency Response Team (ERT) – Use of Transitionary Weapons**
Effective Date:	**8/7/18**

PURPOSE: To provide designated emergency response team (ERT) members a means to deliver secondary or close-quarter lethal force during an incident command system (ICS) emergency, in the event that an ERT member's primary weapon becomes lost or unusable during an emergency, or tactical circumstances render the use of the primary weapon untenable or otherwise unsafe.

APPLICABILITY: Minnesota Department of Corrections (DOC); ERT teams

DEFINITIONS:

Activation – the warden/incident commander makes a request for the ERT team. The request is made to and approved by the assistant commissioner of facilities services. The appropriate teams respond to a predetermined staging location near or in the facility where the critical incident is occurring.

Deployment – occurs when the incident commander gives an order for tactical intervention. The parameters of tactical actions are established in the incident action plan, according to predetermined rules of engagement. The rules of engagement describe what, if any, freedom of action strike team operators have in responding to "what if" situations.

Designated ERT member – an individual assigned to the approved team activated under an expanded ICS.

Improper use – unsafe handling of the transitionary weapon, including such examples as careless or reckless pointing of the barrel in an unsafe direction, horseplay, or any use in a non-lethal situation.

Incident action plan (IAP) – provides a coherent means to communicate the overall incident objectives in the context of both operational and support activities. IAPs are developed for operational periods up to 12 hours in length.

Secured area – a secure facility area that may only be accessed by authorized personnel and is absolutely inaccessible to offenders. Includes such specifications as: inside a locked firearms box, inside of a locked trunk, and with no window access, unless the box is mounted to a vehicle.

Supportive equipment – devices that are used to contain, holster, adapt, or otherwise support the transitionary weapon, including safety holsters, magazines, grips, and optical or electronic sighting equipment.

Transitionary (secondary) weapon – Smith and Wesson M&P™ 9mm pistol.

PROCEDURES:

A. Authorized weapons, equipment, and ammunition

1. Consistent with all DOC policies, division directives, and procedures regarding the use of force, weapons, and special operations, designated members of the emergency response team (ERT) train with, deploy with, and otherwise use a transitionary (or secondary) weapon, in addition to their primary weapons, as emergency circumstances require.

2. Any transitionary weapon used by a designated ERT member must be approved, procured, and issued by the department.

3. Equipment supporting the transitionary weapon, including such examples as, holsters, sights, and magazines must be approved by the department.

4. Alteration or customization of any department-issued transitionary weapon or supportive equipment is prohibited, absent department pre-approval.

5. Only department-approved ammunition is used with any transitionary weapon in training or during activation.

6. Use of non-approved transitionary weapons, ammunition, or equipment, or unauthorized alteration or customization of department-issued transitionary weapons is prohibited.

7. Improper use of department-issued transitionary weapons, ammunition, and equipment is prohibited.

8. A designated ERT member who fails to abide by these prohibitions may lose eligibility to use transitionary weapons and equipment, and may be subject to discipline.

9. Staff who observe violations of these prohibitions must report such violations.

B. Training

1. The firearms training philosophy of DOC ERT is steadfastly grounded in officer survival and safety.
   a) This philosophy is further underscored by ERT members' training activities that strongly reinforce procedures that emphasize avoiding serious injury and stopping the use of or threatened use of death or great bodily harm.

   b) The philosophy of ERT survival is based on the premise that survival is an equilateral triangle consisting of the following:
      (1) Tactics: proactive and reactive;
      (2) Shooting skills: a combination of speed, power and accuracy; and
      (3) Preparation: through physical and mental conditioning.

2. Structure and requirements
   a) Training courses
      Due to the dynamics of potential armed encounters, a variety of training courses are used including such examples as the following:
      (1) Classroom instruction that addresses deadly force and civil liabilities;
      (2) Judgmental (decision) shooting;
      (3) Shooting in diminished lighting conditions and flashlight techniques;
      (4) Care, maintenance, and safety of duty authorized firearms;
      (5) Post-shooting syndrome;
      (6) Officer survival; and
      (7) Weapons retention.

   b) Firearms training

All DOC ERT firearms training is competency based (pass/fail); a minimum score of 80 percent is required for passing. Firearms instruction must consist of the following steps:

(1) Preparation, which includes:
  (a) Loading;
  (b) Grip;
  (c) Stance and using cover and movement;
  (d) Scene assessment and target acquisition;
  (e) Sighting at appropriate distances and techniques; and
  (f) Breathing control;

(2) Delivery, which includes:
  (a) Awareness of multiple adversaries;
  (b) Trigger control/finger position;
  (c) Anticipation/lack of anticipation of the discharge of the firearm;
  (d) Round counting;
  (e) Awareness of cover/use of cover; and
  (f) Breathing control; and

(3) Firearms safety rules, which include:
  (a) Never letting the muzzle cover anything you do not reasonably believe is presenting a threat;
  (b) Keeping the finger off the trigger until target acquisition is gained;
  (c) Verifying the target and beyond;
  (d) That warning shots are not authorized and should never be used; and
  (e) That weapons may not be modified by an individual team member without permission of the commander.

c) Weapons inspection:

(1) At least once per year an ERT firearms instructor must inspect the ERT member's weapon to ensure that it is functioning properly.

(2) If any problems occur with the officer's weapon, the officer must immediately bring the weapon to the ERT firearms instructor.

(3) An ERT member must clean his/her weapon after every training and/or once a month, whichever is most frequent.

3. A designated ERT member may not carry or use a transitionary weapon unless he/she has first received department-approved training in its use, maintenance, and care.

4. Designated ERT members may discharge their transitionary weapons in the course of department-approved training (range practice, qualification) or competitive events.

5. Initial training with the weapon is a 40-hour course of instruction and live fire.

6. All training is electronically documented and retained in the training management system.

C. Deployment

1. Consistent with related policies, directives, and instructions, designated ERT members deploy with and use their transitionary weapons during activation.

2. Tactical use of the transitionary weapon must be consistent with the orders of the incident commander, the incident action plan (IAP), and the Use of Force Continuum (attached).

a) As a device for the delivery of lethal force, designated ERT members must only use their transitionary weapons when reasonably necessary to:
   (1) Protect the officer or another from apparent death or great bodily harm;
   (2) Effect the capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
   (3) Effect the capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony, if the officer reasonably believes that the person may cause death or great bodily harm if their actions are not immediately stopped or delayed.

b) When staff or offenders have been injured, medical aid must be rendered as soon as possible.

c) Consistent with related policies governing the use of firearms, prior to firing the transitionary weapon, the designated ERT member must, when prudent and reasonable, give a verbal warning.

c) Designated ERT members must not fire warning shots with their transitionary weapons.

D. Reporting

1. Consistent with related policies, directives, and instructions governing firearms and use of force, following any team activation, designated ERT members must complete an incident report and document any instance of the removal of a transitionary weapon from its holster in the course of a tactical intervention.

2. A statement of the disposition should be indicated in the report, irrespective of whether the weapon has been fired, as per Policy 301.081 "Use of Force and Restraints – Adult" Procedure C, 2(a), if the incident is of a deadly force nature, involves the discharge of a firearm, results in substantial bodily harm, results in a staff or offender death, or requires outside law enforcement participation for any other reason; office of special investigation (OSI) in conjunction with the watch commander may defer report writing to a later date to be determined by OSI.

3. Any designated ERT members who discharge transitionary weapons in the course of an activation must notify their team commander/designee as soon as possible.
   a) The incident commander/appointing authority of the facility and a law enforcement supervisor from the jurisdiction in which the event took place, must be notified of the weapon discharge.
   b) The director of OSI notifies the commissioner and the deputy commissioner, as well as the Bureau of Criminal of Apprehension (BCA), who is responsible for the criminal investigation.

4. The designated ERT member who discharges a transitionary weapon must render the weapon safe, not unload the weapon, and maintain possession of the weapon until directed either by the team commander or a representative of the OSI, as to when and to whom the weapon is surrendered.

5. When an ERT member's use of force has resulted in death, the ERT member is placed on a mandatory three-day paid administrative leave. Administrative leave is documented on the employee's timecard.

6. In the event any ERT member is involved in a critical incident, the warden/designee may place the ERT member on a three-day mandatory administrative leave.

7. In the event a transitionary weapon or other firearm is discharged in the course of a critical incident, the department conducts an administrative investigation into the incident. A criminal investigation is the responsibility of the law enforcement jurisdiction where the event took place, and the DOC request that the investigation be given to the BCA.

8. All firearm discharges that require notification must be reported on an incident report.
   a) If the ERT member involved is unable to make an immediate statement, a statement is completed by the immediate team commander.
   b) Notwithstanding this, the ERT member involved in the incident is required to complete his/her report as quickly as is reasonably possible thereafter.

9. Incident reports are retained at the facility in which the event took place.

E. Maintenance, custody, and storage

1. The transitionary weapon is located in the armory or a secured area, absolutely inaccessible to offenders, but readily available to personnel in emergencies, for maintenance, and for training purposes.

2. The armory lieutenant/area supervisor must accurately account for the transitionary weapon, using a monthly inventory system including recording and tracing serial number and quantities of equipment and supplies.

3. The inventory consists of the following:
   a) Accounting of the transitionary weapon by serial number, including officer issue log;
   b) Accounting for all ammunition, maintaining a running count within the transitionary weapon logbook; and
   c) The log total must match the actual ammunition in the armory. If a discrepancy exists, immediately notify the captain or watch commander.
   d) A dual review of the inventory must occur at least annually as per Policy 301.100, "Weapon Control."
   e) All weapon and ammunition inventory logs must remain at the facility of issue.

INTERNAL CONTROLS:

A. All training is documented and retained in the agency electronic training management system.

B. All incident reports are retained at the facility in which the event took place.

C. All weapon custody documentation is retained at the facility of issue.

ACA STANDARDS: 4-4203-3A, 2-CO-3A-01

REFERENCES: Minn. Stat. §§ 609.06; 609.065; 241.01; and 243.52

Policy 301.081, "Use of Force and Restraints – Adult"
Policy 301.079, "Juvenile Restrictive Procedures Plan"
Policy 301.155, "Emergency Response Team (ERT)/Special Operations Response Team (SORT)/Communications Unit Leader (COML)"
Policy 301.140, "Incident Command System"
Policy 300.300, "Incident Reports"

REPLACES: Division Directive 301.157 "Emergency Response Team (ERT) – Use of Transitionary Weapons" 5/2/17.
All facility policies, memos or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENT: Use of Force Continuum (107.022B)

APPROVALS:
Deputy Commissioner, Facility Services
Deputy Commissioner, Community Services
Assistant Commissioner, Facility Services
Assistant Commissioner, Operations Support