



CITY OF PORTLAND, OREGON



Bureau of Police

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Executive Summary for Directives: 0910.00 Use of Force Reporting, Review, and Investigation 1010.00 Use of Force 1015.00 Less Lethal Weapons and Tools

Introduction

The Portland Police Bureau began its review of Directive 1010.00, Use of Force, in January 2021. The Bureau worked closely with the United States Department of Justice (DOJ), the Portland Compliance Officer/Community Liaison (COCL), and the police collective bargaining units (unions) over many months to update and revise the Bureau's Use of Force policy.

In response to community and member concern that the Bureau's former force policy was too long and difficult to understand, the Bureau divided Directive 1010.00 into three shorter directives that aim to be clearer and more accessible to readers. The directives are: (1) 0910.00 Use of Force Reporting, Review, and Investigation, (2) 1010.00 Use of Force, and (3) 1015.00 Less Lethal Weapons and Tools.

The Bureau posted proposed drafts of Directive 1010.00 for public comment and review in March-April 2022, and posted proposed drafts for Directives 0910.00 and 1015.00 for public comment and review in June-July 2022.

In addition to reorganizing the content, the Bureau significantly revised its force policy to more closely and consistently reflect the *Graham* Standard, to include important updates to state law, and to move away from language that resembled a force continuum, in line with best practices.

Public Comments

To begin, the Bureau would like to extend its gratitude to the community and to Bureau members for offering valuable input during the lengthy review and development process. The Bureau recognizes that significantly revising and re-organizing these policies made tracking the changes difficult, and is grateful to those who spent their time to review proposed changes and make comments.

Over time, the Bureau has received feedback that the former force policy was too long, too repetitive, confusing, and contained inconsistencies. In particular, at one Portland Committee for Community Engaged Policing (PCCEP) meeting, a community member indicated that they did not

read our policies because they were too cumbersome. Addressing these concerns was the primary focus in revising the Bureau's force policy.

Wherever possible, the Bureau removed redundancies and relocated language to other policies where the information was most relevant. For example, guidance on post-force medical aid was moved to Directive 0630.50, Medical Aid, and the final version of that policy is expected to be enacted in the next few months. Similarly, additional restrictions on force that apply in the crowd management context have been moved to Directive 0635.10, Crowd Management/Crowd Control, which is also expected to be enacted in the next few months.

During Universal Review, several commenters pointed out redundancies in the force categories, such as multiple references to weapons or force resulting in hospitalization. The revised Directive 0910.00 aims to simplify the force categories, making them easier to apply during force investigations. Of note, these categories are relevant in the context of evaluating force after the fact. They are determined based on the type of force used and the outcome of that force; Category I: deadly force and death; Category II: serious physical injury and hospitalization; Category III: physical injury, complaint of physical injury/pain, and less lethal weapon use; and Category IV: force intended for control that does not cause physical injury/pain.

One comment received during Second Universal Review of Directive 0910.00 expressed concern about the removal of non-striking use of baton under force review Category IV. To clarify and to resolve a potential inconsistency, the revised directive 0910.00 now encompasses baton pushes, strikes, and jabs, which require a Category III review, elevating the Bureau's review of such force. This type of weapon use is now both directly discussed in the policy, and also covered by the new Category III review designation of less lethal weapon use generally.

Another comment expressed concern about less guidance in Directive 1015.00 regarding what kind of force or weapons could be used in response to a person's level of resistance. This change in guidance is intentional, and designed to move away from a structure that modeled a force-continuum. Use of force continuum standards, while common, are not considered the best practice in guiding force use, and do not account for *Graham* factors, other than a person's resistance. Departing from a fixed, ascending force guide allows members to better apply the *Graham* standard and focus on objectively reasonable decision-making and the totality of the circumstances.

The Bureau received a comment of concern that restrictions on less lethal weapon use against persons who are pregnant, children, or medically fragile had been removed from Directive 1015.00. These restrictions still exist, but remain in the primary force policy, Directive 1010.00, both for emphasis and because they relate more to force decision-making rather than how specific weapons systems are used.

The Bureau received a comment about the categorization of force against animals being removed from Directive 0910.00. Per the Bureau's Office of the Inspector General guidance, and with DOJ agreement, the Bureau determined that violence against animals does not meet the settlement agreement definition of "force" as found in the Bureau's policy, and is more appropriately addressed in a different policy. That said, the Bureau will certainly continue to track, review, and investigate such incidents, and has drafted guidance that will be added to Directive 0905.00, Non-Force After Action Reporting, which is expected to be enacted in the next few months.

One comment indicated that there was debate about whether Directive 1010.00 applied to a member's off-duty conduct. The revised directive attempts to further clarify that the directive only applies to members engaged in police action.

The Bureau received a comment about the changing definition of box-in, questioning whether perhaps a box-in without physical contact with cars should be considered. The Bureau's review of box-ins indicates that during incomplete or attempted box-ins in which the police car does not touch the suspect car, the suspect car has room to maneuver and can result in the suspect driver attempting to drive off, increasing risk to the suspect, members, and others nearby. For that reason, when members decide to conduct a box-in, making physical contact is important for safety reasons and remains the standard.

One commenter requested the Bureau not use the language "commit suicide" in the force policy, given the criminal implications of the word "commit." According, the Bureau changed such references to "attempt suicide."

Finally, the Bureau received comments about the significant de-escalation value of canine units along with a request that the force policy recognize utilizing canines as a form of de-escalation. While canine units are certainly valuable and often assist members in avoiding using force, canines are used in a range of ways, some of which do not comport with the traditional concept of de-escalation. As such, listing canine use as a de-escalation tactic was not deemed appropriate for the purpose of the policy.

The Bureau's Revised (1010.00) and New (0910.00 and 1015.00) Directives

Revised Directive 1010.00, and new directives 0910.00 and 1015.00 include several updates. The Bureau aims to highlight key changes, not addressed above, here.

Directive 1010.00 includes several new definitions that have been revised or included for consistency with state law, such as "crowd management," "chemical incapacitant," and "kinetic impact projectile."

The directive also updated the definition of "de-escalation" and introduced definitions for "feasible," "procedural justice," and "totality of the circumstances." In addition to the revised definition, the directive offers additional guidance on de-escalation, distinguishing between proactive and re-active de-escalation to recognize that the realities of applying de-escalation tactics differ depending on the context.

The directive also now discusses the duty to intervene, as reflected in state law. That duty is discussed in further detail in Directive 0305.00, Active Bystandership, Intervention, and Anti-Retaliation.

The directive clarifies the expectation for members issuing force warnings, and uses consistent language throughout the directive, stating that force warnings shall be issued when feasible. Feasible is defined as "when time and safety allow for a particular action." Regarding CEW use, training will continue to instruct members to provide warnings unless providing a warning would present a danger to the member or others, and members will be held to that standard when using a CEW.

The directive also clarifies guidance on using deadly force from or at moving vehicles, providing that when a vehicle operator is targeting a pedestrian or group of people, the vehicle constitutes a deadly threat.

Directive 0910.00 introduces a new procedure for when a supervisor is unable to respond to the scene of a force event, requiring documentation of the justification and review of the justification by the branch Assistant Chief.

The directive also introduces additional guidance to supervisors for determining the category of force investigation, directing supervisors to apply the highest category applicable when multiple categories apply.

Directive 1015.00 slightly modifies post-CEW use investigation to shift responsibilities for photographing and collecting evidence and interviewing witnesses to the responding supervisor, rather than the involved member.

Generally speaking, Directive 1015.00 also increases transparency by naming and identifying less lethal weapons in greater detail and including guidance on all weapons used.

Conclusion

The Bureau significantly updated its force policy by revising Directive 1010.00 Use of Force, and introducing new Directives 0910.00 Use of Force Reporting, Review, and Investigation, and 1015.00 Less Lethal Weapons and Tools. This updated force suite aims to offer clearer and more succinct guidance, important legal updates, and move away from force continuum standards, in line with best practices.

The Bureau welcomes further feedback on these directives during their next review.

To account for scheduled in-service training, these directives will go into effect on November 15, 2022. Published on August 22, 2022.

0910.00, Use of Force Reporting, Review, and Investigation

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS § 161.015, General Definitions
- ORS 161.195, “Justification” described
- ORS 161.205, Use of physical force generally
- ORS 181A.708, Use of chemical incapacitants, kinetic impact projectiles and sound devices
- DIR 0315.30, Satisfactory Performance
- DIR 0330.00, Internal Affairs, Complaint Intake and Processing
- DIR 0333.00, Criminal Investigations of Police Bureau Employees
- DIR 0335.00, Discipline Process
- DIR 0338.00, Discipline Guide
- DIR 0345.00, Employee Information System
- DIR 0416.00, Critical Incident - Temporary Altered Duty
- DIR 0630.05, Vehicle Interventions and Pursuits
- DIR 0630.45, Emergency Medical Custody Transports
- DIR 0630.50, Emergency Medical Aid
- DIR 0631.70, Investigation of Animal Problems
- DIR 0635.10, Crowd Management/Crowd Control
- DIR 0640.02, Photography and Digital Imaging
- DIR 0850.20, Mental Health Crisis Response
- DIR 0900.00, General Reporting Guidelines
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1015.00, Less Lethal Weapons and Tools
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- **Administrative Review:** A written determination that requires the gathering and evaluating of information to develop a course of action.
- **After Action Report:** A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.
- **Boxing In:** A coordinated tactic of making contact between police vehicles and a subject vehicle to stop or prevent the start of a pursuit.
 - **Dynamic Box-In:** A box-in performed on a vehicle that is in motion.
 - **Static Box-In:** A box-in performed on a vehicle that is not in motion, and that is not reasonably likely to cause physical injury or significant damage.
- **Complaint of Improper Force:** A complaint by a person at the scene, or while in police custody, of improper force during a police action. Complaints of improper force include complaints of inappropriate and/or excessive force.

- **Complaint of Physical Injury:** An assertion by a person that a member caused the person physical injury.
- **Conducted Electrical Weapon (CEW):** A weapon, including Tasers, designed primarily to discharge electrical charges into a person that will cause involuntary muscle contractions and overrides the person's voluntary motor responses.
 - **Arcing:** Activating a CEW without discharging the probes or making contact with a person, to serve as a warning to the person.
 - **CEW Application:** The contact and delivery of an electrical impulse to a person using a CEW.
 - **CEW Cycle:** An activation of the CEW for a duration of up to five seconds.
- **Constitutional Force Standard (*Graham* Standard):** Under *Graham v. Connor* and subsequent cases, the federal courts have established that when determining whether to use force, members must balance the individual's Fourth Amendment rights against the government's interest. When using force under this standard, members shall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable under the totality of the circumstances.
- **Cover Fire:** Member discharge of a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a person, when direct action against the person is not feasible. Cover fire is not intended to strike a person, but is meant only to prevent a person from taking further action against the police or others that could result in death or serious physical injury.
- **Critical Firearm Discharge:** Each discharge of a firearm by a member. This term includes cover fire or discharges at persons where no one is struck. This term is not intended to include discharges at the range or in training, or negligent discharges not intended as an application of force, which are still subject to administrative investigation.
- **Deadly Force, also known as Lethal Force:** Any use of force likely to cause death or serious physical injury, including the use of a firearm, neck hold, or strike to the head, neck or throat with a hard object.
- **De-escalation:** A deliberate attempt to prevent or reduce the amount of force necessary to safely and effectively resolve confrontations.
- **Feasible:** When time and safety allow for a particular action.
- **Flash Sound Diversion/Distraction Device (FSDD):** A munition that creates intense light and overpressure (sound) through an explosive charge.

- Force: Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.
- Hospitalization: Refers to admission to the hospital, and does not include treatment and release in the emergency department.
- Immediate Cover: A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).
- Improper Use of Force: Any use of force that is inconsistent with PPB policy, training, or law.
- Involved Member: For this directive, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- Kinetic Impact Projectile (KIP): All non-lethal, less lethal, or semi-lethal projectiles, including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds, and pellet rounds.
- Less Lethal Weapon: An apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- Mental Health Crisis: An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress, a thought disorder, obvious changes in functioning and/or catastrophic life events, which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.
- Necessary: No objectively reasonable and effective alternative presently exists to effect a lawful objective.
- Neck hold: When a member knowingly uses physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person. This also includes the carotid restraint hold or lateral vascular neck restraint. A neck hold shall be considered deadly (lethal) force.
- Non-Disciplinary Corrective Action: Action other than discipline taken by a PPB supervisor to enable or encourage a member to improve their performance.
- Objectively reasonable: The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be

judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms reasonable and reasonably in this policy refer to objective reasonableness. All assertions of a member's knowledge, intent, deliberateness, or inadvertence under this policy must be objectively reasonable and the Bureau shall assess all assertions under the objective reasonableness standard.

- **Physical Injury:** As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- **Resistance:** Opposition or obstruction directed towards an officer that impedes a lawful objective. Resistance may consist of the following:
 - **Passive Resistance:** Non-compliance or non-cooperation with an officer's lawful order that is non-violent, and does not involve active conduct or pose an immediate threat to the officer or the public.
 - **Active Resistance:** A person's physical attempt(s) to evade a member's control or lawful order.
- **Serious Physical Injury:** As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
- **Witness member:** For this directive, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding another member's use of force or a member's direction to another to use force, and did not use force themselves.

Policy:

1. This policy establishes requirements for reporting, reviewing, and investigating all use of force to ensure a fair, thorough, and impartial assessment of member actions.
2. Member accountability is necessary to maximize public safety, build public trust, and ensure constitutional policing. The Bureau is committed to creating, maintaining, and continually improving accountability systems and establishing transparent reporting practices. When force is used, the Bureau is dedicated to reviewing, reporting, and investigating member actions to determine if the force used was in accordance with Bureau training and policy.

Procedure:

1. **Categories of Review.**

1.1. Category Determination.

- 1.1.1. Reporting and investigating requirements are determined by the type of force used, injury sustained, and/or complaint of injury.

- 1.1.2. Unless extraordinary circumstances exist, a supervisor who receives notification of a use of force shall respond to the scene to determine the appropriate level of investigation pursuant to the categories listed below.
 - 1.1.3. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.
 - 1.1.4. Supervisors have the discretion to elevate the category of any force investigation.
 - 1.1.5. When multiple force options are used during an incident, or when a force type fits under more than one category, the investigation shall be conducted at the highest applicable category.
 - 1.1.6. An on-scene supervisor who reasonably believes that a member's use of force violates Bureau policy shall immediately notify their immediate supervisor and the on-call Internal Affairs (IA) Lieutenant.
 - 1.1.7. The on-call IA Lieutenant shall determine the degree of investigation required for force that allegedly violates Bureau policy.
- 1.2. Category I:
- 1.2.1. Deadly force use, in-custody death, and death resulting from member use of force. Category I force includes, but is not limited to:
 - 1.2.1.1. All critical firearm discharges by a member, except as authorized to stop an aggressive animal or end the suffering of a badly injured animal.
 - 1.2.1.2. In-custody deaths;
 - 1.2.1.3. Death resulting from member use of force;
 - 1.2.1.4. Neck holds; and
 - 1.2.1.5. All intentional head, neck, and throat strikes with a hard object or when a member strikes the head of a person against a hard object.
 - 1.2.2. Category I Review.
 - 1.2.2.1. Reporting and investigation requirements for Category I Force are governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.
- 1.3. Category II:
- 1.3.1. All member use of force resulting in serious physical injury, hospitalization, disability, or warranting an elevated review. Category II force includes, but is not limited to:
 - 1.3.1.1. Force resulting in serious physical injury, hospitalization, or disability;
 - 1.3.1.2. Force resulting in injury deemed to be significant by a member's supervisor;
 - 1.3.1.3. More than one simultaneous intentional CEW application on a person at a time;
 - 1.3.1.4. Three or more CEW applications to the same person;
 - 1.3.1.5. CEW applications or attempted applications on persons who have an actual or perceived mental illness, or who are in mental health crisis;
 - 1.3.1.6. Canine bites;

- 1.3.1.7. Force used upon restricted persons (i.e., children under the age of fifteen, pregnant persons, medically fragile);
- 1.3.1.8. Force resulting in a loss of consciousness;
- 1.3.1.9. Any strike, blow, kick, or similar use of force against a handcuffed, otherwise restrained, under control, or in-custody subject, with or without injury; and
- 1.3.1.10. Ramming as a vehicle intervention strategy.
- 1.3.2. Category II Review.
 - 1.3.2.1. For all force resulting in hospitalization, supervisors shall notify the Detective Division of the incident, and a detective shall respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.
 - 1.3.2.2. The use of force After Action report shall be reviewed through the chain of command, up to and including the Assistant Chief.
- 1.4. Category III:
 - 1.4.1. All member use of force resulting in physical injury, complaint of pain or physical injury, and less lethal weapon use without serious physical injury. Category III force includes, but is not limited to:
 - 1.4.1.1. Two (2) or fewer CEW applications or attempted applications on persons who do not have an actual or perceived mental illness, or who are not in mental health crisis;
 - 1.4.1.2. FSDD use inside a structure or vehicle. FSDD use outdoors, not directed at a person, and where there is no injury or complaint of pain or injury is not a use a force. Outdoor use occurring nearby to a person the member was unaware of may not be considered force, but supervisors shall investigate the incident in the after action review;
 - 1.4.1.3. All other less lethal weapon use (This includes less lethal weapon discharges, regardless of contact, and all baton pushes, strikes, and jabs. Use of a baton to guide a person where there is no injury or complaint of pain or injury is not a use of force);
 - 1.4.1.4. Physical injury;
 - 1.4.1.5. Complaint of pain or physical injury;
 - 1.4.1.6. Complaint of improper force;
 - 1.4.1.7. Takedown;
 - 1.4.1.8. Strikes with the hands or feet; and
 - 1.4.1.9. PIT maneuver as a vehicle intervention strategy.
 - 1.4.2. Category III Review.
 - 1.4.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the RU Manager.
- 1.5. Category IV:
 - 1.5.1. All member use of force that is intended to establish control of a resistant person, though not reasonably likely to cause persistent pain or physical injury. Category IV force includes, but is not limited to:

- 1.5.1.1. Takedown performed in a completely controlled manner where there is minimal resistance and no injury;
- 1.5.1.2. Handcuffing against resistance or control against resistance;
- 1.5.1.3. Pointing of a firearm;
- 1.5.1.4. Use of hobble restraint; and
- 1.5.1.5. Boxing-In maneuver as a vehicle intervention strategy, except static box-ins where there is no injury and no complaint of injury.
- 1.5.2. Category IV Review.
 - 1.5.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.

2. Notifications.

- 2.1. Supervisors shall immediately notify their shift supervisor verbally and immediately notify Professional Standards Division (PSD) in writing regarding:
 - 2.1.1. All suspected misconduct;
 - 2.1.2. All force against persons who have actual or perceived mental illness; and
 - 2.1.3. Serious Use of Force.
- 2.2. Serious Use of Force includes:
 - 2.2.1. All uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part or organ;
 - 2.2.2. All critical firearm discharges by a member;
 - 2.2.3. All uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor;
 - 2.2.4. All head, neck and throat strikes with an object or neck holds;
 - 2.2.5. Force used upon juveniles known or reasonably assumed to be under fifteen or persons known or reasonably assumed to be pregnant;
 - 2.2.6. All uses of force by a member resulting in a loss of consciousness;
 - 2.2.7. More than two applications of a CEW on a person during a single interaction, regardless of the mode or duration of the application, regardless of whether the applications are by the same or different officers, and regardless of whether the CEW application is longer than 15 seconds, whether continuous or consecutive; and
 - 2.2.8. Any strike, blow, kick, CEW application, or similar use of force against a handcuffed, otherwise restrained, under control, or in custody subject, with or without injury.
 - 2.2.9. Any use of force referred by a member's supervisor to Professional Standards Division (PSD) which PSD deems a Serious Use of Force.
- 2.3. Supervisors shall immediately verbally notify their shift supervisor, PSD, Detectives Division, and the Assistant Chief of Investigations through channels, when the supervisor suspects possible criminal conduct.

3. Reporting and Review.

3.1. Core Principles.

- 3.1.1. All members shall immediately notify a supervisor regarding their use of force, or their negligent or unintentional discharge of any weapon.
- 3.1.2. All members shall notify a supervisor as soon as practical when they become aware of a complaint of improper force, a complaint of physical injury, or actual injury to a person in custody.
- 3.1.3. All members who use Category II through IV force shall write a thorough report of their actions before the end of their shift.
 - 3.1.3.1. All members who are involved in or witness the force incident shall provide a full and candid account of the event to the supervisor at the scene.
- 3.1.4. All members shall immediately notify a supervisor of any use of force by another member that violates Bureau Policy when it is safe to do so.
- 3.1.5. For force Categories I through III, witness members shall write a thorough report of the force they witnessed before the end of their shift. Witness members shall report all uses of force whether or not the person is struck or affected by any weapon.

3.2. Reporting Requirements.

- 3.2.1. Members who use force in any police action while off duty shall comply with the reporting requirements of this section.
- 3.2.2. Reports shall demonstrate efforts to locate witnesses at the scene. When feasible, involved members shall identify potential witnesses to a non-involved member or a supervisor. Non-involved members and supervisors shall then attempt to contact witnesses at the scene or explain in their report when circumstances prevented them from doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.
- 3.2.3. Members shall refer to Directive 0900.00, General Reporting Guidelines, for additional guidance about report writing.
- 3.2.4. Reports shall include:
 - 3.2.4.1. The reason for the initial police presence.
 - 3.2.4.2. Whether the person or was known by the member to be mentally ill or in mental health crisis. If mental illness was present, members shall describe how they took that into account and how it impacted their decision making.
 - 3.2.4.3. A description of the decision-making at each significant point leading up to and during the event.
 - 3.2.4.4. The force used, to include descriptive information regarding the use of any weapon.
 - 3.2.4.5. The specific circumstances that led to the discharge of any weapon, if applicable.
 - 3.2.4.6. The name of the member designated as immediate cover, if applicable or present.

- 3.2.4.7. Any observable injury to the person, any complaint of injury or the absence of injury, including information regarding any medical aid or on-scene medical evaluation provided or refused by the person, when applicable.
- 3.2.4.8. A description of the resistance encountered by each officer that led to each separate use of force and, if applicable, any injuries to the subject(s) or member(s).
- 3.2.4.9. What, if any, de-escalation techniques were used and whether or not they were effective. If de-escalation was not used, the member shall explain why de-escalation was not attempted.
- 3.2.4.10. A description of force a member observes another member apply, when a report is required.
- 3.2.4.11. The name of the supervisor who was verbally notified, as well as the name of the responding supervisor, if different.
- 3.2.4.12. Efforts to document witness observations and explain when circumstances prevent them from identifying witnesses or obtaining contact information. Reports will include all available identifying information for anyone who refuses to provide a statement.
- 3.2.4.13. A description of the warning given to members and the subject. If no warning was given, members shall state why.
 - 3.2.4.13.1. No written justification is necessary for the lack of a warning for the use of vehicle intervention techniques or Category IV force.
- 3.2.5. Reporting CEW Use.
 - 3.2.5.1. The report also shall document:
 - 3.2.5.1.1. The specific circumstances leading to the use of the CEW.
 - 3.2.5.1.2. The distance from which the CEW was used.
 - 3.2.5.1.3. The location on the person's body of the probe strike and the impact points.
 - 3.2.5.1.4. The serial numbers of all cartridges expended.
 - 3.2.5.1.5. The serial number of the CEW used.
 - 3.2.5.1.6. The name of the supervisor who was verbally notified as well as the responding supervisor, if different.
 - 3.2.5.1.7. Whether EMS responded and the results of any medical evaluation, if applicable. If EMS was not summoned, the member shall provide a justification.
 - 3.2.5.1.8. Any evidence or complaints of injury or illness by the person.
- 3.2.6. Reporting of Canine Use.
 - 3.2.6.1. Canine handlers shall complete a use of force report for all bites.
 - 3.2.6.2. Canine unit supervisors shall complete an After Action report for all directed and unintentional canine bites through channels to the appropriate Assistant Chief.
- 3.3. Reporting Exceptions.
 - 3.3.1. Reporting and investigation requirements for Category I Force are governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.

- 3.3.2. If a member is the victim of a felony assault or attempted murder, and only used non-deadly force during the incident, the narrative portion of their force report may be completed by a detective who takes their statement and follows all reporting timing requirements. Consistent with Bureau practice, the detective shall record the interview.
- 3.3.3. Members who are incapable of writing a report, due to a medical incapacitation that is subject to statutorily protected leave status as a result of the condition, may be granted an extension until they are capable of completing the report.
 - 3.3.3.1. Any such extensions must be approved by a supervisor at the rank of Lieutenant or higher.
 - 3.3.3.2. The member granted an exception shall, in a timely manner, provide their supervisor with a Work Status Report that identifies any restrictions or limitations on the member until a specified date.

4. Supervisor Reporting and Investigation.

- 4.1. A supervisor who receives notification of a use of force shall respond to the scene unless extraordinary circumstances exist. *In rare circumstances*, safety or other practicality reasons may prevent a supervisor from responding directly to the scene, and instead necessitate that the supervisor respond to a proximate location.
 - 4.1.1. Supervisors shall document in writing the reason that prevented their response to the scene or prompted the response to a proximate location.
 - 4.1.2. If a supervisor is unable to respond to the scene, the Branch Assistant Chief shall review the supervisor's justification as part of the After Action review process.
- 4.2. Where necessary, the supervisor shall ensure that the person upon whom force was used receives medical attention from an appropriate medical provider.
- 4.3. The supervisor shall conduct an administrative review and a thorough investigation of the use of force, consistent with this policy, gathering applicable evidence described in this policy.
 - 4.3.1. If a supervisor is involved in the use of force, they shall contact another supervisor to conduct the administrative review of the incident.
- 4.4. Supervisors shall personally interview the involved member and make an inquiry sufficient to determine the nature of the event and the member's justification for the use of force.
- 4.5. Supervisors shall personally interview the witness member(s) and make an inquiry sufficient to describe the nature of the force.
- 4.6. Supervisors shall interview members and witnesses individually and not in groups.
- 4.7. Supervisors shall document non-member witness observations.
 - 4.7.1. Reports shall demonstrate efforts to locate witnesses. Supervisors shall attempt to contact witnesses and explain when circumstances prevented them from

doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.

5. Force After Action Reports.

- 5.1. For Category II-IV force incidents, the supervisor shall document the findings of the review and investigation in an After Action report, and forward the report through the chain of command.
- 5.2. The After Action report form serves as a checklist to ensure that supervisors carry out force investigation responsibilities. At least annually, the Inspector, or Chief's designee, shall review the form for adequacy and relevance, and revise as needed.
- 5.3. For Category II-IV force incidents, supervisors shall complete an After Action report within 72 hours of the use of force.
- 5.4. All force After Action reports or, in use of deadly force incidents, the investigator's report shall contain a detailed description and comprehensive account of the force. The report(s) shall include:
 - 5.4.1. Summary: a short one or two paragraph narrative that describes the significant facts of the event.
 - 5.4.2. Involved Member statement: a narrative that describes the use of force.
 - 5.4.3. Investigation: a description of the supervisor's actions and the directions they gave on scene.
 - 5.4.4. Discussion of force: a description of the nature of the force and the member's justification for the use of force.
 - 5.4.5. Injuries: a description and photographs of the presence or absence of injuries to the subject or involved Bureau member.
 - 5.4.6. Medical Treatment: a description of any medical treatment offered, requested, or administered, and by whom.
 - 5.4.7. Subject statement: supervisors shall make an attempt to obtain a statement from the subject detailing the event and any injuries.
 - 5.4.8. Witness Member statement: supervisors shall obtain a statement from the witness member(s) detailing their observation of the event.
 - 5.4.9. Non-member witness statements: supervisors shall make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor shall ensure that the witness statements are documented in the appropriate report.
 - 5.4.10. Physical evidence: supervisors shall ensure that the administrative review includes collecting any physical or photographic/video evidence that may assist other reviewers in the chain of command in understanding the scene and event.
 - 5.4.11. Critique Findings and Recommendations: the critique of findings and recommendations shall contain a thorough analysis of the incident. It shall address any applicable directives, whether or not members complied with such directives and any recommendations or actions taken to address issues

encountered on-scene or during the reporting process. Supervisors may also modify findings as appropriate and document modifications.

- 5.4.11.1. The authoring supervisor shall:
 - 5.4.11.1.1. Review all use of force reports to ensure that they include information required per Bureau policy;
 - 5.4.11.1.2. Evaluate the weight of the evidence;
 - 5.4.11.1.3. Use a decision-point approach to analyze each use of force;
 - 5.4.11.1.4. Determine whether the member's actions appear consistent with Bureau policy;
 - 5.4.11.1.5. Determine whether there was legal justification for the original stop and/or detention;
 - 5.4.11.1.6. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, including failing to report a use of force, whether applied or observed; and
 - 5.4.11.1.7. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that they discuss poor tactical decisions with the member and that the discussion is documented in the Employee Information System (EIS).
- 5.4.11.2. Supervisors in the chain of command review shall:
 - 5.4.11.2.1. Ensure the authoring supervisor met all the requirements for Critique Findings and Recommendations;
 - 5.4.11.2.2. Review After Action report findings using a preponderance of the evidence standard;
 - 5.4.11.2.3. Review After Action reports to ensure completeness and order additional investigation, when necessary;
 - 5.4.11.2.4. Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or lesser force options;
 - 5.4.11.2.5. Modify findings as appropriate and document modifications;
 - 5.4.11.2.6. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability of the findings;
 - 5.4.11.2.7. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed;
 - 5.4.11.2.8. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that the authoring supervisor discusses poor tactical decisions with the member and that the discussion is documented in EIS;
 - 5.4.11.2.9. Suspend an investigation immediately and notify the branch Assistant Chief, the on-call PSD Lieutenant and the Detectives Division whenever the investigation supervisor, shift commander or Division commander finds evidence of apparent criminal conduct by a member; and
- 5.4.11.3. Review and correction of the use of force After Action report shall be completed through the RU within twenty-one days of the event.

- 5.5. If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.
- 5.6. Supervisors shall ensure that EIS tracks all comments, findings, and corrections related to the After Action Reports. Members shall refer to Directive 0345.00, Employee Information System (EIS), for additional guidelines.
- 5.7. All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of After Action reports completed by other supervisors under their command. Corrective or disciplinary action may include training, demotion, and/or removal from a supervisory position, based on repeated deficient After Action reviews at any level of command.
- 5.8. When, after investigation, a use of force is found to violate policy, the Bureau shall ensure that investigative findings regarding member misconduct are adequately addressed and that appropriate corrective action is taken fairly and expeditiously to resolve the issue.
- 5.9. Where the use of force implicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the Force Inspector and the Chief, who shall ensure that the Bureau timely conducts necessary training and/or resolves the policy, tactical or equipment concern.
- 5.10. The Chief, or designee, and the PSD have the discretion to reassign a use of force investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the After Action chain of command as described here.
- 5.11. The Force Inspector's Office shall routinely audit force-related After Actions and the associated reports and produce findings to the Chief. The Chief, or a designee, shall refer to the Inspector's audits to identify trends related to deficient reporting and investigations or problematic use of force patterns. The Chief, or a designee, shall take appropriate corrective action throughout the chain of command when use of force reports, force investigations conducted by supervisors, force-related After Action reports and Command reviews are not completed in accordance with Bureau policy and practices.
- 5.12. The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney's Office as required by law in a timely fashion.
- 5.13. Additional Supervisor Reporting Responsibilities.

- 5.13.1. An on-duty supervisor shall respond to the scene of all negligent or unintentional discharges of a firearm and notify the Detective Division, which will assume investigative responsibility, except at Bureau authorized training events, where no injury occurs. At training events, as long as no injury occurs, the Training Division shall have responsibility for investigating and reporting the negligent discharge.
- 5.13.2. An on-duty supervisor shall investigate all negligent or unintentional discharges of less lethal weapons and document the incident in an After Action report.
 - 5.13.2.1. Supervisors shall investigate negligent or unintentional discharges of less lethal weapons that strike another person in the same manner as a use of force investigation.

0910.00, Use of Force Reporting, Review, and Investigation ~~(NEW)~~

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS § 161.015, General Definitions
- ORS 161.195, “Justification” described
- ORS 161.205, Use of physical force generally
- ORS 181A.708, Use of chemical incapacitants, kinetic impact projectiles and sound devices
- DIR 0315.30, Satisfactory Performance
- DIR 0330.00, Internal Affairs, Complaint Intake and Processing
- DIR 0333.00, Criminal Investigations of Police Bureau Employees
- DIR 0335.00, Discipline Process
- DIR 0338.00, Discipline Guide
- DIR 0345.00, Employee Information System
- DIR 0416.00, Critical Incident - Temporary Altered Duty
- DIR 0630.05, Vehicle Interventions and Pursuits
- DIR 0630.45, Emergency Medical Custody Transports
- DIR 0630.50, Emergency Medical Aid
- DIR 0631.70, Investigation of Animal Problems
- DIR 0635.10, Crowd Management/Crowd Control
- DIR 0640.02, Photography and Digital Imaging
- DIR 0850.20, Mental Health Crisis Response
- DIR 0900.00, General Reporting Guidelines
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1015.00, Less Lethal Weapons ~~(NEW)~~and Tools
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- Administrative Review:- A written determination that requires the gathering and evaluating of information to develop a course of action.
- After Action Report:- A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.
- Boxing In: A coordinated tactic of making contact between police vehicles and a subject vehicle to stop or prevent the start of a pursuit.
 - Dynamic Box-In: A box-in performed on a vehicle that is in motion.
 - Static Box-In: A box-in performed on a vehicle that is not in motion, and that is not reasonably likely to cause physical injury or significant damage.

- ~~Handheld Chemical Incapacitant: The following, together or separately:~~

~~(i) Handheld munitions and devices specifically designed to cause temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm through the toxic properties of toxic chemicals, or their precursors, that would be released as a result of the employment of the handheld munitions and devices; and (ii) Any equipment specifically designed for use directly in connection with the employment of handheld munitions and devices as described in subparagraph (i) of this subparagraph. Handheld chemical incapacitant does not include tear gas.~~

- ~~○ Precursor: Any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system.~~
- ~~○ Tear Gas: Oleoresin capsicum or orthochlorobenzalmalononitrile, or other similar chemicals meant to accomplish the same effect, administered by any shell, cartridge or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of the chemicals.~~
- ~~○ Toxic Chemical: Any chemical that through its chemical action on biological processes can cause death, temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm to humans or animals.~~

- Complaint of Improper Force:- A complaint by a person at the scene, or while in police custody, of improper force during a police action. Complaints of improper force include complaints of inappropriate and/or excessive force.
- Complaint of Physical Injury: -An assertion by a person that a member caused the person physical injury.
- Conducted Electrical Weapon (CEW): -A weapon, including Tasers, designed primarily to discharge electrical charges into a person that will cause involuntary muscle contractions and overrides the person's voluntary motor responses.
 - Arcing: Activating a CEW without discharging the probes or making contact with a person, to serve as a warning to the person.
 - CEW Application: The contact and delivery of an electrical impulse to a person using a CEW.
 - CEW Cycle: An activation of the CEW for a duration of up to five seconds.
- Constitutional Force Standard (*Graham* Standard): -Under *Graham v. Connor* and subsequent cases, the federal courts have established that when determining whether to use force, members must balance the individual's Fourth Amendment rights against the government's interest. ~~Under~~ When using force under this standard, members shall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable under the totality of the circumstances.
- Cover Fire: Member discharge of a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a person, when direct action against the person is not feasible. Cover fire is not intended to strike a person, but is meant only to prevent a

person from taking further action against the police or others that could result in death or serious physical injury.

- Critical Firearm Discharge:- Each discharge of a firearm by a member. This term includes cover fire or discharges at persons where no one is struck. This term is not intended to include discharges at the range or in training, or negligent discharges not intended as an application of force, which are still subject to administrative investigation.
- Deadly Force, also known as Lethal Force: -Any use of force likely to cause death or serious physical injury, including the use of a firearm, neck hold, or strike to the head, neck or throat with a hard object.
- De-escalation:- A deliberate attempt to prevent or reduce the amount of force necessary to safely and effectively resolve confrontations.
- Feasible: When time and safety allow for a particular action.
- Flash Sound Diversion/Distraction Device (FSDD): A munition that creates intense light and overpressure (sound) through an explosive charge.
- Force:- Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.
- Hospitalization: Refers to admission to the hospital, and does not include treatment and release in the emergency department.
- Immediate Cover: -A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).
- Improper Use of Force: -Any use of force that is inconsistent with PPB policy, training, or law.
- Involved Member:- For this directive, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- Kinetic Impact Projectile (KIP): All non-lethal, less lethal, or semi-lethal projectiles, including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds, and pellet rounds.
- ~~Less Lethal Force: Force employed that is neither likely nor intended to cause death or serious physical injury.~~

- **Less Lethal Weapon:-** An apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or serious physical injury ~~than~~lethan a conventional lethal weapon such as a firearm.
- **Mental Health Crisis:** An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (~~e.g., anxiety, depression, anger, fear, panic, hopelessness~~),₂ a thought disorder (~~e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment~~),₂ obvious changes in functioning (~~e.g., neglect of personal hygiene~~) and/or catastrophic life events (~~e.g., disruptions in personal relationships, support systems or living arrangements, loss of autonomy or parental rights, victimization or natural disasters~~),₂ which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.
- **Necessary:-** No objectively reasonable and effective alternative presently exists to effect a lawful objective.
- **Neck hold:** When a member knowingly uses physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person. This also includes the carotid restraint hold or lateral vascular neck restraint. A neck hold shall be considered deadly (lethal) force.
- **Non-Disciplinary Corrective Action:** -Action other than discipline taken by a PPB supervisor to enable or encourage a member to improve their performance.
- **Objectively reasonable:-** The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms reasonable and reasonably in this policy refer to objective reasonableness. All assertions of a member's knowledge, intent, deliberateness, or inadvertence under this policy must be objectively reasonable and the Bureau shall assess all assertions under the objective reasonableness standard.
- **Physical Injury:-** As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- Resistance: Opposition or obstruction directed towards an officer that impedes a lawful objective. Resistance may consist of the following:

- Passive Resistance: Non-compliance or non-cooperation with an officer's lawful order that is non-violent, and does not involve active conduct or pose an immediate threat to the officer or the public.
 - Active Resistance: A person's physical attempt(s) to evade a member's control or lawful order.
- Serious Physical Injury:- As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
 - Witness member:- For this directive, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding another member's use of force or a member's direction to another to use force, and did not use force themselves.

Policy:

1. This policy establishes requirements for reporting, reviewing, and investigating all use of force to ensure a fair, thorough, and impartial assessment of member actions.

~~1.2.~~ Member accountability is necessary to maximize public safety, build and maintain community public trust, and ensure constitutional policing. The Bureau is committed to creating, maintaining, and continually improving accountability systems and establishing transparent reporting practices. When force is used, the Bureau is dedicated to reviewing, reporting, and investigating member actions to determine if the force used was in accordance with Bureau training and policy.

~~2. This policy establishes requirements for reporting, reviewing, and investigating all use of force to ensure a fair, thorough, and impartial assessment of member actions.~~

Procedure:

1. Categories of Review.

1.1. Category Determination.

- 1.1.1. Reporting and investigating requirements are determined by the type of force ~~deployed~~used, injury sustained, and/or complaint of injury.
- 1.1.2. ~~A~~Unless extraordinary circumstances exist, a supervisor who receives notification of a use of force shall respond to the scene, ~~when feasible,~~ to determine the appropriate level of investigation pursuant to the categories listed below.
- 1.1.3. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.
- 1.1.4. Supervisors have the discretion to elevate the category of any force investigation.
- 1.1.5. When multiple force options are used during an incident, or when a force type fits under more than one category, the investigation shall be conducted at the highest applicable category.

- 1.1.6. An on-scene supervisor who reasonably believes that a member's use of ~~force~~ violates Bureau policy shall immediately notify their immediate supervisor and the on-call ~~Professional Standards Division (PSD)~~Internal Affairs (IA) Lieutenant.
- 1.1.7. The on-call ~~PSD~~IA Lieutenant shall determine the degree of investigation required for force that allegedly violates Bureau policy.

1.2. Category I:

~~1.2.~~ Deadly force use, in-custody death, and death resulting from member(s)' use of force.

- 1.2.1. Category I force includes, but is not limited to:
 - 1.2.1.1. All critical firearm discharges by a member, except as authorized to stop an aggressive animal or end the suffering of a badly injured animal.
 - 1.2.1.2. In-custody deaths;
 - 1.2.1.3. Death resulting from member(s)' use of force;
 - 1.2.1.4. Neck holds; and
 - 1.2.1.5. All intentional head, neck, and throat strikes with a hard object or when a member strikes the head of a person against a hard object.
- 1.2.2. Category I Review.
 - 1.2.2.1. Reporting and investigation requirements for Category I Force are governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.

1.3. Category II: ~~Force resulting in hospitalization;~~

~~1.3.~~ ~~All member use of force that is reasonably likely to cause enduring pain, resulting in serious physical injury, hospitalization, disability, or impairment of any body part, but does not result in death.~~

1.3.1. warranting an elevated review. Category II force includes, but is not limited to:

- ~~1.3.1.1.~~ Force resulting in ~~a significant~~serious physical injury, ~~including a broken bone, an injury requiring hospitalization, or a~~disability;
- ~~1.3.1.1.1.~~1.3.1.2. Force resulting in injury deemed to be significant by a member's supervisor;
- ~~1.3.1.2.~~1.3.1.3. More than one simultaneous intentional CEW application on a person at a time;
- ~~1.3.1.3.~~1.3.1.4. Three or more CEW applications to the same person;
- ~~1.3.1.4.~~1.3.1.5. CEW applications or attempted applications on ~~individuals~~persons who have an actual or perceived mental illness, or who are in mental health crisis;
- ~~1.3.1.5.~~ ~~Impact weapon, with injury requiring hospitalization;~~
- ~~1.3.1.6.~~ ~~Firearm discharges to stop an aggressive animal;~~
- ~~1.3.1.7.~~1.3.1.6. Canine bites;
- ~~1.3.1.8.~~ ~~Takedown that causes injury requiring hospitalization;~~
- ~~1.3.1.9.~~ ~~Chemical incapacitants;~~
- ~~1.3.1.10.~~ ~~KIPs;~~
- ~~1.3.1.11.~~1.3.1.7. Force used upon restricted persons (i.e., children under the age of fifteen, pregnant ~~individuals~~persons, medically fragile);

- ~~1.3.1.12.1.3.1.8.~~ Force resulting in a loss of consciousness;
- ~~1.3.1.13.1.3.1.9.~~ Any strike, blow, kick, or similar use of force against a handcuffed, otherwise restrained, under control, or in-custody subject, with or without injury; and
- ~~1.3.1.14.1.3.1.10.~~ Ramming as a vehicle intervention strategy.

1.3.2. Category II Review.

- 1.3.2.1. For all force resulting in hospitalization, supervisors shall notify the Detective Division of the incident, and a detective shall respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.
- 1.3.2.2. The use of force After Action report shall be reviewed through the chain of command, up to and including the Assistant Chief.

~~1.4.~~ Category III: ~~Force that is reasonably likely to cause non-enduring pain, disorientation,~~

~~1.4.~~ ~~All member use of force resulting in~~ physical injury, ~~or the~~ complaint of pain-

~~1.4.1.~~ ~~or physical injury, and less lethal weapon use without serious physical injury.~~

Category III force includes, but is not limited to:

- 1.4.1.1. Two (2) or fewer CEW applications or attempted applications on ~~individuals~~ persons who do not have an actual or perceived mental illness, or who are not in mental health crisis;
- ~~1.4.1.2.~~ ~~Use of aerosol restraints;~~
- ~~1.4.1.3.~~ ~~Chemical agents used by SERT;~~
- ~~1.4.1.4.~~ ~~Use of impact weapon, without injury;~~
- ~~1.4.1.5.~~ ~~Physical injury or complaint of injury;~~
- ~~1.4.1.6.~~ ~~Physical injury requiring medical treatment but not hospitalization;~~
- ~~1.4.1.2.~~ ~~FSDD use inside a structure or vehicle. FSDD use outdoors, not directed at a person, and where there is no injury or complaint of pain or injury is not a use a force. Outdoor use occurring nearby to a person the member was unaware of may not be considered force, but supervisors shall investigate the incident in the after action review;~~
- ~~1.4.1.3.~~ ~~All other less lethal weapon use (This includes less lethal weapon discharges, regardless of contact, and all baton pushes, strikes, and jabs. Use of a baton to guide a person where there is no injury or complaint of pain or injury is not a use of force);~~
- ~~1.4.1.4.~~ ~~Physical injury;~~
- ~~1.4.1.5.~~ ~~Complaint of pain or physical injury;~~
- ~~1.4.1.7.1.4.1.6.~~ ~~Complaint of improper force;~~
- ~~1.4.1.8.~~ ~~Launched impact munitions, without contact;~~
- ~~1.4.1.9.1.4.1.7.~~ ~~Takedown;~~
- ~~1.4.1.10.1.4.1.8.~~ ~~Strikes with the hands or feet; and~~
- ~~1.4.1.11.1.4.1.9.~~ ~~PIT maneuver as a vehicle intervention strategy.~~

1.4.2. Category III Review.

- 1.4.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the RU Manager.

1.5. Category IV: ~~Force~~

~~1.5.~~ All member use of force that is intended to establish control of a resistant person, though not ~~intended or~~ reasonably likely to cause persistent pain or physical injury.

~~1.5.1.~~ Category IV force includes, but is not limited to:

~~1.5.2.1.5.1.~~ Non-striking use of baton;

~~1.5.2.1.5.1.1.~~ Takedown performed in a completely controlled manner where there is minimal resistance and no injury;

~~1.5.2.2.1.5.1.2.~~ Handcuffing against resistance or control against resistance;

~~1.5.2.3.1.5.1.3.~~ Pointing of a firearm;

~~1.5.2.4.1.5.1.4.~~ Use of hobble restraint; and

~~1.5.2.5.~~ Use of a less lethal weapon to stop a vicious or aggressive animal;

~~1.5.2.6.~~ Firearm discharges to end the suffering of a badly injured animal; and

~~1.5.2.7.1.5.1.5.~~ Boxing--In maneuver as a vehicle intervention strategy, except static box-ins where there is no injury and no complaint of injury.

~~1.5.3.1.5.2.~~ Category IV Review.

~~1.5.3.1.1.5.2.1.~~ The use of force After Action report shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.

2. Notifications.

~~2.1.~~ Supervisors shall immediately notify their shift supervisor verbally and immediately notify Professional Standards Division (PSD) in writing regarding:

~~2.1.1.~~ All suspected misconduct;

~~2.1.2.~~ All force against persons who have actual or perceived mental illness; and

~~1.5.4.2.1.3.~~ Serious Use of Force.

~~1.6.~~ Serious Use of Force consists of certain types of force that require Bureau supervisors to immediately notify their shift supervisor and the PSD on-call Lieutenant when they occur.

~~1.7.2.2.~~ Serious Use of Force includes:

~~1.7.1.2.2.1.~~ All uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part or organ;

~~1.7.2.2.2.~~ All critical firearm discharges by a member;

~~1.7.3.2.2.3.~~ All uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor;

~~1.7.4.2.2.4.~~ All head, neck and throat strikes with an object or neck holds;

~~1.7.5.2.2.5.~~ Force used upon juveniles known or reasonably assumed to be under fifteen or ~~individuals~~persons known or reasonably assumed to be pregnant;

~~1.7.6.2.2.6.~~ All uses of force by a member resulting in a loss of consciousness;

~~1.7.7.2.2.7.~~ More than two applications of a CEW on ~~an individual during~~ person during a single interaction, regardless of the mode or duration of the application, regardless of whether the applications are by the same or different

officers, and regardless of whether the CEW application is longer than 15 seconds, whether continuous or consecutive; and

~~1.7.8:2.2.8.~~ Any strike, blow, kick, CEW application, or similar use of force against a handcuffed, otherwise restrained, under control, or in custody subject, with or without injury.

~~1.7.9:2.2.9.~~ Any use of force referred by a member's supervisor to Professional Standards Division (PSD) which PSD deems ~~serious~~ a Serious Use of Force.

~~2. Additional Elevated Notifications by Supervisors~~

~~2.1. In addition to Serious Use of Force, supervisors shall immediately verbally notify their shift supervisor, PSD, Detectives Division, and PSD regarding:~~

~~2.1.1. —~~

~~2.1.2. Any use of force against persons who have actual or perceived mental illness.~~

~~2.2.2.3. In the event that Assistant Chief of Investigations through channels, when the supervisor suspects possible criminal conduct, the supervisor shall notify their shift supervisor, the on-call PSD Lieutenant, the branch Assistant Chief, and the Bureau's Detective Division.~~

3. Reporting and Review.

3.1. Core Principles.

- 3.1.1. All members shall immediately notify a supervisor regarding their use of force, or their negligent or unintentional discharge of any weapon.
- 3.1.2. All members shall notify a supervisor as soon as practical when they become aware of a complaint of improper force, a complaint of physical injury, or actual injury to a person in custody.
- 3.1.3. All members who use Category II through IV force shall write a thorough report of their actions before the end of their shift.
 - 3.1.3.1. All members who are involved in or witness the force incident shall provide a full and candid account of the event to the supervisor at the scene.
- 3.1.4. All members shall immediately notify a supervisor of any use of force by another member that violates Bureau Policy when it is safe to do so.
- 3.1.5. For force Categories I through III, witness members shall write a thorough report of the force they witnessed before the end of their shift. Witness members shall report all uses of force whether or not the person is struck or affected by any weapon.

3.2. Reporting Requirements.

- 3.2.1. Members who use force in any police action while off duty shall comply with the reporting requirements of this section.
- 3.2.2. Reports shall demonstrate efforts to locate witnesses at the scene. When feasible, involved members shall identify potential witnesses to a non-involved member or a supervisor. Non-involved members and supervisors shall then attempt to contact witnesses at the scene or explain in their report when

circumstances prevented them from doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.

- 3.2.3. Members shall refer to Directive 0900.00, General Reporting Guidelines, for additional guidance about report writing.
- 3.2.4. Reports shall include:
 - 3.2.4.1. The reason for the initial police presence.
 - 3.2.4.2. Whether the individual person or was known by the member to be mentally ill or in mental health crisis. If mental illness was present, members shall describe how they took that into account and how it impacted their decision making.
 - 3.2.4.3. A description of the decision-making at each significant point leading up to and during the event.
 - 3.2.4.4. The force used, to include descriptive information regarding the use of any weapon.
 - 3.2.4.5. The specific circumstances that led to the discharge of any weapon, if applicable.
 - 3.2.4.6. The name of the member designated as immediate cover, if applicable or present.
 - 3.2.4.7. Any observable injury to the person, any complaint of injury or the absence of injury, including information regarding any medical aid or on-scene medical evaluation provided or refused by the person, when applicable.
 - 3.2.4.8. A description of the resistance encountered by each officer that led to each separate use of force and, if applicable, any injuries to the subject(s) or member(s).
 - 3.2.4.9. What, if any, de-escalation techniques were used and whether or not they were effective. If de-escalation was not used, the member shall explain why de-escalation was not attempted.
 - 3.2.4.10. A description of force a member observes another member apply, when a report is required.
 - 3.2.4.11. The name of the supervisor who was verbally notified, as well as the name of the responding supervisor, if different.
 - 3.2.4.12. Efforts to document witness observations and explain when circumstances prevent them from identifying witnesses or obtaining contact information. Reports will include all available identifying information for anyone who refuses to provide a statement.
 - 3.2.4.13. A description of the warning given to members and the subject. If no warning was given, members shall state why.
 - 3.2.4.13.1. No written justification is necessary for the lack of a warning for the use of vehicle intervention techniques or Category IV force.
- 3.2.5. Reporting -CEW Use.
 - 3.2.5.1. The report also shall document:
 - 3.2.5.1.1. The specific circumstances leading to the use of the CEW.

- 3.2.5.1.2. The distance from which the CEW was used.
- 3.2.5.1.3. The location on the person's body of the probe strike and the impact points.
- 3.2.5.1.4. The serial numbers of all cartridges expended.
- 3.2.5.1.5. The serial number of the CEW used.
- 3.2.5.1.6. The name of the supervisor who was verbally notified as well as the responding supervisor, if different.
- 3.2.5.1.7. Whether EMS responded and the results of any medical evaluation, if applicable. If EMS was not summoned, the member shall provide a justification.
- 3.2.5.1.8. Any evidence or complaints of injury or illness by the person.
- 3.2.6. Reporting of Canine Use.
 - 3.2.6.1. Canine handlers shall ~~also~~ complete a use of force report for all bites.
 - 3.2.6.2. Canine unit supervisors shall complete an After Action report for all directed and unintentional canine bites through channels to the appropriate Assistant Chief.
- 3.3. Reporting Exceptions.
 - 3.3.1. Reporting and investigation requirements for Category I Force are governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.
 - 3.3.2. If a member is the victim of a felony assault or attempted murder, and only used non-deadly force during the incident, the narrative portion of their force report may be completed by a detective who takes their statement and follows all reporting timing requirements. Consistent with Bureau practice, the detective shall record the interview.
 - 3.3.2.3.3.3. Members who are incapable of writing a report, due to ~~injury or extraordinary circumstances~~ a medical incapacitation that is subject to statutorily protected leave status as a result of the condition, may be granted an extension until they are capable of completing the report.
 - 3.3.2.1.3.3.3.1. ~~Extensions due to extraordinary circumstances~~ Any such extensions must be approved by a supervisor at the rank of Lieutenant or higher.
 - 3.3.2.2.3.3.3.2. The member granted an exception shall, in a timely manner, provide their supervisor with a Work Status Report that identifies any restrictions or limitations on the member until a specified date.

4. Supervisor Reporting and Investigation.

- 4.1. A supervisor who receives notification of a use of force shall respond to the ~~scene unless not feasible.~~ scene unless extraordinary circumstances exist. *In rare circumstances*, safety or other practicality reasons may prevent a supervisor from responding directly to the scene, and instead necessitate that the supervisor respond to a proximate location.
 - 4.1.1. Supervisors shall document in writing the reason that prevented their response to the scene or prompted the response to a proximate location.

4.1.2. If a supervisor is unable to respond to the scene, the Branch Assistant Chief shall review the supervisor's justification as part of the After Action review process.

- 4.2. Where necessary, the supervisor shall ensure that the person upon whom force was used receives medical attention from an appropriate medical provider.
- 4.3. The supervisor shall conduct an administrative review and a thorough investigation of the use of force, consistent with this policy, gathering applicable evidence described in this policy.
 - 4.3.1. If a supervisor is involved in the use of force, they shall contact another supervisor to conduct the administrative review of the incident.
- 4.4. Supervisors shall personally interview the involved member and make an inquiry sufficient to determine the nature of the event and the member's justification for the use of force.
- 4.5. Supervisors shall personally interview the witness member(s) and make an inquiry sufficient to describe the nature of the force.
- 4.6. Supervisors shall interview members and witnesses individually and not in groups.
- 4.7. Supervisors shall document non-member witness observations.
 - 4.7.1. Reports shall demonstrate efforts to locate witnesses. Supervisors shall attempt to contact witnesses and explain when circumstances prevented them from doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.

5. Force After Action Reports.

- 5.1. For Category II-IV force incidents, the supervisor shall document the findings of the review and investigation in an After Action report, and forward the report through the chain of command.
- 5.2. The After Action report form serves as a checklist to ensure that supervisors carry out force investigation responsibilities. At least annually, the Inspector, or Chief's designee, shall review the form for adequacy and relevance, and revise as needed.
- 5.3. For Category II-IV force incidents, supervisors shall complete an After Action report within 72 hours of the use of force.
- 5.4. All force After Action reports or, in use of deadly force incidents, the investigator's report shall contain a detailed description and comprehensive account of the force. The report(s) shall include:
 - 5.4.1. Summary: a short one or two paragraph narrative that describes the significant facts of the event.

- 5.4.2. Involved Member statement: a ~~statement~~narrative that describes the ~~event and the~~ use of force.
- 5.4.3. Investigation: a description of the supervisor's actions and the directions they gave on scene.
- 5.4.4. Discussion of force: a description of the nature of the force and the member's justification for the use of force.
- 5.4.5. Injuries: a description and photographs of the presence or absence of injuries to the subject or involved Bureau member.
- 5.4.6. Medical Treatment: a description of any medical treatment offered, requested, or administered, and by whom.
- 5.4.7. Subject statement: supervisors shall make an attempt to obtain a statement from the subject detailing the event and any injuries.
- 5.4.8. Witness Member statement: supervisors shall obtain a statement from the witness member(s) detailing their observation of the event.
- 5.4.9. Non-member witness statements: supervisors shall make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor shall ensure that the witness statements are documented in the appropriate report.
- 5.4.10. Physical evidence: supervisors shall ensure that the administrative review includes collecting any physical or photographic/video evidence that may assist other reviewers in the chain of command in understanding the scene and event.
- 5.4.11. Critique Findings and Recommendations: the critique of findings and recommendations shall contain a thorough analysis of the incident. It shall address any applicable directives, whether or not members complied with such directives and any recommendations or actions taken to address issues encountered on-scene or during the reporting process. Supervisors may also modify findings as appropriate and document modifications.
 - 5.4.11.1. The authoring supervisor shall:
 - 5.4.11.1.1. Review all use of force reports to ensure that they include information required per Bureau policy;
 - 5.4.11.1.2. Evaluate the weight of the evidence;
 - 5.4.11.1.3. Use a decision-point approach to analyze each use of force;
 - 5.4.11.1.4. Determine whether the member's actions appear consistent with Bureau policy;
 - 5.4.11.1.5. Determine whether there was legal justification for the original stop and/or detention;
 - 5.4.11.1.6. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, including failing to report a use of force, whether applied or observed; and
 - 5.4.11.1.7. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that they discuss poor tactical decisions with the member and that the discussion is documented in the Employee Information System (EIS).
 - 5.4.11.2. Supervisors in the chain of command review shall:

- 5.4.11.2.1. Ensure the authoring supervisor met all the requirements for Critique Findings and Recommendations;
- 5.4.11.2.2. Review After Action report findings using a preponderance of the evidence standard;
- 5.4.11.2.3. Review After Action reports to ensure completeness and order additional investigation, when necessary;
- 5.4.11.2.4. Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or lesser force options;
- 5.4.11.2.5. Modify findings as appropriate and document modifications;
- 5.4.11.2.6. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability of the findings;
- 5.4.11.2.7. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed;
- 5.4.11.2.8. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that the authoring supervisor discusses poor tactical decisions with the member and that the discussion is documented in EIS;
- 5.4.11.2.9. Suspend an investigation immediately and notify the branch Assistant Chief, the on-call PSD Lieutenant and the Detectives Division whenever the investigation supervisor, shift commander or Division commander finds evidence of apparent criminal conduct by a member; and

~~5.4.11.2.10. Report a matter to the on-call PSD Lieutenant for review and investigation whenever an investigating supervisor, shift commander or precinct commander finds evidence of significant misconduct by a member or employee.~~

5.4.11.3. Review and correction of the use of force After Action report shall be completed through the RU within twenty-one days of the event.

- 5.5. If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.
- 5.6. Supervisors shall ensure that EIS tracks all comments, findings, and corrections related to the After Action Reports. Members shall refer to Directive 0345.00, Employee Information System (EIS), for additional guidelines.
- 5.7. All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of After Action reports completed by other supervisors under their command. Corrective or disciplinary action may

include training, demotion, and/or removal from a supervisory position, based on repeated deficient After Action reviews at any level of command.

- 5.8. When, after investigation, a use of force is found to violate policy, the Bureau shall ensure that investigative findings regarding member misconduct are adequately addressed and that appropriate corrective action is taken fairly and expeditiously to resolve the issue.
- 5.9. Where the use of force implicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the Force Inspector and the Chief, who shall ensure that the Bureau timely conducts necessary training and/or resolves the policy, tactical or equipment concern.
- 5.10. The Chief, or designee, and the PSD have the discretion to reassign a use of force investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the After Action chain of command as described here.
- 5.11. The Force Inspector's Office shall routinely audit force-related After Actions and the associated reports and produce findings to the Chief. The Chief, or a designee, shall refer to the Inspector's audits to identify trends related to deficient reporting and investigations or problematic use of force patterns. The Chief, or a designee, shall take appropriate corrective action throughout the chain of command when use of force reports, force investigations conducted by supervisors, force-related After Action reports and Command reviews are not completed in accordance with Bureau policy and practices.
- 5.12. The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney's Office ~~and any applicable police oversight body~~as required by law in a timely fashion.
- 5.13. Additional Supervisor Reporting Responsibilities.
 - 5.13.1. An on-duty supervisor shall respond to the scene of all negligent or unintentional discharges of a firearm and notify the Detective Division, which will assume investigative responsibility, except at Bureau authorized training events, where no injury occurs. At training events, as long as no injury occurs, the Training Division shall have responsibility for investigating and reporting the negligent discharge.
 - 5.13.2. An on-duty supervisor shall investigate all negligent or unintentional discharges of less lethal weapons and document the incident in an After Action report.
 - 5.13.2.1. Supervisors shall investigate negligent or unintentional discharges of less lethal weapons that strike another person in the same manner as a use of force investigation.

#1

COMPLETE

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Page 1

Q1

Please provide feedback for this directive

test

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

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Page 1

Q1

Please provide feedback for this directive

COMMENTS ON LESS LETHAL, FORCE REPORTING AND IDENTIFICATION DIRECTIVES, JUNE 2022

To Chief Lovell, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in June which focus on "less lethal" weapons, force reporting and identification < <http://www.portlandoregon.gov/police/59757> >.

With the weapons policy (1015.00), we seem to have gotten what we'll call the "boomerang effect" in which we called out the Bureau for removing some information (allowable use of the weapons) but leaving in other (prohibited uses). Rather than add back the allowable uses section, the PPB removed both sections in the new draft. There are still some sections outlining restrictions on a per-weapon basis, but no broad restrictions.

Similarly, we expressed concern last month that the Directive on police violence against animals removed reporting requirements. The PPB has cut those requirements out of the Force Reporting Directive as well (910.00)

There also seem to be good developments in the Identification Directive (312.50), but perhaps more clarity is needed.

Once again we suggest that the Bureau should give labels to all of the major sections of the Directives, such as the Definitions, Policy and Procedure sections. Our comments refer to the Procedure section unless otherwise noted.

DIRECTIVE 910.00 USE OF FORCE REPORTING, REVIEW AND INVESTIGATION (previous comments in April 2022)

--Good Fix on Misconduct: The Section (previous 5.4.11.2.10) which limited Supervisors to only sending "significant" misconduct cases to Professional Standards is being cut, with new section 2.1.1 saying they have to report "all suspected misconduct." Portland Copwatch appreciates this change, as it aligns with a comment we made previously.

--Strange Addition: The Definitions section now has a definition for "Flash Sound Diversion/Distraction Device." These weapons are supposedly not being used any more at protest actions. Use in other situations must be strongly limited so that persons do not get hit, injured or killed by these "distraction" weapons. The deployment of these flash-bangs is only considered a category III use of force if it is used inside a structure (new 1.4.1.2). If they are used outdoors, what category do they fit? The next item, 1.4.1.3 says that any less lethal weapon deployment fits category III, so why single out the indoor use of FSDDs?

--Giant Loophole: Bureau policies, in line with US Dept. of Justice requirements, state that officers who witness deadly force incidents have to be interviewed on scene. An officer who witnessed the shooting of Joshua Merritt in July 2021 claimed an exemption for experiencing trauma during the incident. New proposed Section 3.3.2 states that "if the member is a victim of a felony assault or attempted murder, and only used non-deadly force during an incident, and a detective is interviewing the member as a victim, the detective interview will satisfy the members' narrative portion of their force report." While this language describes a narrow set of circumstances, it doesn't provide (a) that the detective interview has to happen on scene or (b) that the listed crimes have to be proven in order for the officer to invoke this loophole. Civilians are often pressured to give statements even in the worst of circumstances. No special rights for police.

--Open Season on Protestors: Several years ago, a member of our organization was observing police behavior while on a sidewalk during a protest action. An officer shoved this person with a baton from behind in order to move more quickly past them. If a civilian had been doing the shoving, it would be considered an assault. The PPB is proposing to remove "non-strike use of a baton" from category IV force, which is already the lowest level of force such as merely pointing a firearm. This is outrageous, and we speculate

0910.00 Directive Feedback (2UR)

this is being done because police shoved so many people with batons in 2020, they could not keep up with the paperwork. The solution is not to lower the reporting standard, but rather to raise the bar for when force can be used and/or to stop using it.

The remainder of our comments are carried over from the April feedback, with numbering updated to reflect the new draft.

--Reporting All Weapons Use: Section 3.2.4.5 which calls for the "circumstances that led to the discharge of any weapon" to be included.. This fixes a previous concern officers were not always required to report that they used or explain the reason for using some weapons. That said, "discharge" does not describe the use of batons, so more clarity is needed. That includes that PPB should require such reporting for weapons used in protest situations. (See "Open Season," above.)

--Reporting All Force Use: The Directive implies that After Action Reports should be written after any use of force by officers. It should explicitly state that Reports must be written when force is used in crowd situations. Doing so will help minimize the reporting problems which occurred during the racial justice protests of 2020.

--Civilians--Or Higher Ranking Cops-- On Scene: Section 5.3.1 requires a Supervisor who uses force to call in another Supervisor to conduct an investigation. Portland Copwatch still believes the Directive should at least require that other Supervisor to be of a higher rank-- or more importantly, as we have suggested repeatedly, the investigation should be done by a civilian oversight agency.

--Add Better Reporting Requirements: Years after being cut, the Bureau has not reinserted sections requiring a supervisor to check on a wounded civilian who is hospitalized or ensure injuries are photographed. Currently, even talking to the person who is subjected to force is not a mandatory part of the Supervisor's duties. Section 5.4.7 says Supervisors should "attempt" to interview the subject, but there is no caution against asking questions about potential underlying criminal activity. PCW continues to call for the "Independent" Police Review (IPR) or other such non-police agency to respond to scenes of use of force to avoid such legal complications.

CONCLUSION

Once again, having thirty days to review these Directives is helpful, but Portland Copwatch would still like to see review periods extended to allow for groups who only meet once a month to give input. The Chief has spoken publicly about how the Directives process shows trust-building, but the low level of participation is likely in part a result of the short time frames. People also do not generally have the time to read through the entire policies, especially the longer ones, so a summary page of changes made and the reasons for them would go a long way to improve the process. PCW also continues to believe the Bureau would benefit by holding public meetings to discuss the intent behind proposed changes and to take questions about community ideas for improvements to policies.

Thank you

--dan handelman and other members of
Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch

#1

COMPLETE

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Q1

Please provide feedback for this directive

1.3.1.8 seems redundant as it is already covered prior in 1.3.1.1

1.4.1.1 is complicated as it refers to both successful and attempted applications and can conflict with a CAT II report. For example, I discharge my CEW and the probes do not penetrate the clothing. I switch to my other cartridge and have a successful application. I cycle one more time before custody can be effected. I have completed (2) applications of CEW which keeps it a CAT III report. CAT II is (3) or more applications. By including "attempted applications" we are forcing the incident into a CAT II despite there only being as much force that would meet the CAT III distinction. It would be easier to remove the "attempted application" language. Perhaps an "attempted application" alone without successful application could be a CAT IV to preserve recording purposes.

1.3.1.10 needs to be clarified to omit misses with a KIP. I understand that this is covered later in CAT III, but the terminology changes. Based on per definition, any discharge of a 40mm would meet 1.3.1.10 regardless of contact.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

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Q1

Please provide feedback for this directive

Ashley,
One minor typo, and then a larger policy point.

"1.1.6. An on-scene supervisor who reasonably believes that a member's use of force violates Bureau policy shall immediately notify their immediate supervisor and the on-call Professional Standards Division (PSD) Lieutenant."

Force = Force.

They are a number of locations throughout the Directive that require members to notify the on-call professional standards lieutenant. Most of those should be directed to the Internal Affairs Lieutenant, not PSD.
(I am meeting with A/Captain Pashley of IAD next week to work out the details with him.) I will let you know the results of our conversation.

The one area that I do need to be notified about are uses of force against people with actual or perceived mental illness and serious uses of force. For the last 5 years or so, those notifications are completed via email. Most folks know that. but it would be helpful to spell that out in the directive. I'm not sure how to word smith that, but wanted to bring it to your attention.

Thanks,
Matt

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Lt Matt Engen, PSD**

#3

COMPLETE

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Page 1

Q1

Please provide feedback for this directive

The definition of "Handheld Chemical Incapacitant" in this directive is expanded compared to the definition used in the new draft of directive 1015. These definitions should probably be identical.

The definition of "Conducted Electrical Weapon" does not include a definition of "drive stun" as is included in the definition in 1015.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Jackson Oldham**

#4

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Q1

Please provide feedback for this directive

COMMENTS ON FORCE, MEDICAL AND PROCEDURAL JUSTICE DIRECTIVES, APRIL 2022

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in mid March which focus on force, medical aid and procedural justice < <http://www.portlandoregon.gov/police/59757> >. The Force policy (1010.00) was split up to once again remove "Less Lethal" Weapons (now 1015.00, was 1050.00), after being integrated just five years ago in 2017. Force reporting now has its own policy (910.00). Parts of the Force policy about medical aid were moved into the specific Directive on that topic (630.50). We made comments on the Force policy in January 2021. The procedural justice policy is new.

We note up front that, although we only found it in once place, the Bureau has finally heeded our advice to distinguish between de-escalation prior to using force and lowering the amount of force being used on a person. The latter is now referred to as "reactive de-escalation." However this distinction has not been added to the Definitions section of Directive 1010.00.

We also noticed there are fewer references to weapons as "tools" in these directives, with the exception of the definition of "Less Lethal Weapon" in three policies and one other use in 1015.00. As we have noted before "these items are all designed to kill, harm, wound, or physically coerce people to follow police orders, not items used to open paint cans or build shelters for houseless people."

Unfortunately, the major revisions to 1010.00 almost make the redline version meaningless for purposes of comparison. Entire sections are crossed out but reappear in other places in that Directive, and the parts that were moved to new Directives show no indication where changes were made since those policies are being treated as "new." That said, after laborious line-by-line comparisons, PCW is re-stating many of its previous comments and adding new ones based on significant changes being proposed.

As usual, we ask the Bureau to give different labels to all of the major sections of the Directives, such as the Definitions, Policy and Procedure sections. Our comments refer to the Procedure section unless otherwise noted.

DIRECTIVE 910.00 USE OF FORCE REPORTING, REVIEW AND INVESTIGATION (previous comments in January 2021 review of 1010.00)

Reporting All Weapons Use: A previous concern we had that reasons for and use of some weapons was not required has been fixed in Section 4.2.4.5 which calls for the "circumstances that led to the discharge of any weapon" to be included. That said, "discharge" does not describe the use of batons, so more clarity is needed, including that this applies in protest situations.

Reporting All Force Use: The Directive implies that After Action Reports should be written after any use of force by officers; it should be explicit that this includes in crowd situations to avoid the problems of reporting at the racial justice protests of 2020.

Civilians--Or Higher Ranking Cops-- On Scene: Section 5.3.1 requires a Supervisor who uses force to call in another Supervisor to conduct an investigation. Portland Copwatch still believes the Directive should at least require that other Supervisor to be of a higher rank-- or more importantly, as we have suggested repeatedly, the investigation should be done by a civilian oversight agency.

Any Misconduct Should Be Investigated: In 2018 we suggested that the word "significant" be removed from the Section (now 6.4.11.2.10) requiring Supervisors to report information to the Professional Standards Division (PSD) if there is evidence of "significant" misconduct, as any misconduct during a force incident should be investigated. That has still not been fixed.

Add Better Reporting Requirements: Years after being cut, the Bureau has not reinserted sections requiring a supervisor to check on a wounded civilian who is hospitalized or ensure injuries are photographed. Talking to the person who is subjected to force is not a

mandatory part of the Supervisor's duties. Section 6.4.7 says Supervisors should "attempt" to interview the subject, but there is no caution against asking questions about potential underlying criminal activity. PCW continues to call for the "Independent" Police Review (IPR) or other such non-police agency to respond to scenes of use of force to avoid such legal complications.

CONCLUSION

Portland Copwatch appreciates that all of these Directives are being given a full 30 days for review, but still would like to see review periods extended to allow for groups who only meet once a month to give input during the Bureau's time frame. The Bureau would also benefit from holding public meetings to discuss the intent behind proposed changes and to take questions about community ideas for improvements to policies. We wrote previously: "Frequently when there are references to comments made but not acted upon, the answers are unsatisfactory and dismissive; we should be able to engage in a dialogue to help move the Bureau more toward one that is free from brutality, corruption and racism."

--dan handelman and other members of
Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Portland Copwatch**

1010.00, Use of Force

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS 161.015, General Definitions
- ORS 161.195, “Justification” described
- ORS 161.205, Use of physical force generally
- ORS 181A.708, Use of chemical incapacitants, kinetic impact projectiles and sound devices
- DIR 0305.00, Active Bystandership, Intervention, and Anti-Retaliation
- DIR 0315.30, Satisfactory Performance
- DIR 0330.00, Internal Affairs, Complaint Intake and Processing
- DIR 0333.00, Criminal Investigations of Police Bureau Employees
- DIR 0345.00, Employee Information System
- DIR 0416.00, Critical Incident - Temporary Altered Duty
- DIR 0630.05, Vehicle Interventions and Pursuits
- DIR 0630.45, Emergency Medical Custody Transports
- DIR 0630.50, Emergency Medical Aid
- DIR 0631.70, Investigation of Animal Problems
- DIR 0635.10, Crowd Management/Crowd Control
- DIR 0640.02, Photography and Digital Imaging
- DIR 0850.20, Mental Health Crisis Response
- DIR 0900.00, General Reporting Guidelines
- DIR 0910.00, Use of Force Reporting, Review, and Investigation
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1015.00, Less Lethal Weapons and Tools
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- **Boxing In:** A coordinated tactic of making contact between police vehicles and a subject vehicle to stop or prevent the start of a pursuit.
 - **Dynamic Box-In:** A box-in performed on a vehicle that is in motion.
 - **Static Box-In:** A box-in performed on a vehicle that is not in motion, and that is not reasonably likely to cause physical injury or significant damage.
- **Conducted Electrical Weapon (CEW):** A weapon, including Tasers, designed primarily to discharge electrical charges into a person that will cause involuntary muscle contractions and overrides the person’s voluntary motor responses.
- **Constitutional Force Standard (*Graham* Standard):** Under *Graham v. Connor* and subsequent cases, the federal courts have established that when determining whether to use force, members must balance the individual’s Fourth Amendment rights against the government’s interest. When using force under this standard, members shall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable under the totality of the circumstances.

- **Cover Fire:** Member discharge of a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a person, when direct action against the person is not feasible. Cover fire is not intended to strike a person, but is meant only to prevent a person from taking further action against the police or others that could result in death or serious physical injury.
- **Crowd Management:** A public security practice in which crowds are managed to prevent the outbreak of crowd rushes, affrays, fights or riots, or in which an assembly, protest or demonstration is dispersed.
- **Deadly/Lethal Force:** Any use of force likely to cause death or serious physical injury, including the use of a firearm, neck hold, or strike to the head, neck or throat with a hard object
- **De-escalation:** A deliberate attempt to prevent or reduce the amount of force necessary to safely and effectively resolve confrontations.
- **Feasible:** When time and safety allow for a particular action.
- **Force:** Physical coercion used to effect, influence, or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.
- **Immediate Cover:** A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).
- **Involved Member:** For this directive, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- **Lawful Objective:** Any reason for police action that is valid under the law. Examples include, but are not limited to: arresting, detaining, or searching a person; overcoming resistance or preventing escape; preventing the commission of a crime; defending self or others; preventing a person from self-harm; restricting access to an area in an emergency.
- **Less Lethal Force:** Force employed that is neither likely nor intended to cause death or serious physical injury.
- **Less Lethal Weapon:** An apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- **Mental Health Crisis:** An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect

of personal hygiene) and/or catastrophic life events (e.g., disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.

- **Mental Illness:** Health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. Alterations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.
- **Necessary:** No objectively reasonable and effective alternative presently exists to effect a lawful objective.
- **Neck hold:** When a member knowingly uses physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person. This also includes the carotid restraint hold or lateral vascular neck restraint. A neck hold shall be considered deadly (lethal) force.
- **Objectively Reasonable:** The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms “reasonable” and “reasonably” in this policy refer to objective reasonableness. All assertions of a member’s knowledge, intent, deliberateness, or inadvertence under this policy must be objectively reasonable and the Bureau shall assess all assertions under the objective reasonableness standard.
- **Physical Injury:** As defined in ORS § 161.015 (7), the impairment of a person’s physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- **Police Action:** Any circumstance, on or off duty, in which a sworn member exercises or attempts to exercise police authority. This includes, but is not limited to, stops, searches, arrests, and use of force.
- **Procedural Justice:** The idea of fairness in process, recognizing that a person’s perception of fairness is strongly impacted by the quality of their experiences and not only the end result of those experiences.
- **Resistance:** Opposition or obstruction directed towards an officer that impedes a lawful objective. Resistance may consist of the following:

- Passive Resistance: Non-compliance or non-cooperation with an officer's lawful order that is non-violent, and does not involve active conduct or pose an immediate threat to the officer or the public.
 - Active Resistance: A person's physical attempt(s) to evade a member's control or lawful order.
- Serious Physical Injury: As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
 - Totality of the Circumstances: The facts and context of an incident known to the member at the time of the incident, including, but not limited to:
 - *Graham* Standard Factors (threat, severity of the offense, and active resistance or evading).
 - Whether the person is experiencing an actual or perceived mental health crisis.
 - Whether the person is impaired by drugs or alcohol, or otherwise incapacitated.
 - Number of officers and suspects.
 - Feasibility of using de-escalation techniques or non-force tactics.
 - Suspect possession of a weapon(s).
 - Availability of cover officers.
 - Environmental factors.
 - Warning Shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.
 - Witness Member: For this directive, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding another member's use of force or a member's direction to another to use force, and did not use force themselves.

Policy:

1. The Portland Police Bureau is committed to upholding the civil rights of all individuals, protecting human life and property, and maintaining civil order. This commitment includes ensuring the welfare of members of the public, and its officers and professional staff, with an emphasis on the sanctity of life and policing with respect.
2. The Bureau recognizes that members may need to use force in the performance of their duties. In these circumstances, the community expects and the Bureau requires that members use only the objectively reasonable force necessary based on the totality of the circumstances. Members who violate these values by using objectively unreasonable force erode the confidence of the community and may expose themselves, those present, and the greater population to unnecessary danger; thus, objectively unreasonable uses of force shall result in corrective action and/or discipline, up to and including termination.
3. Members should recognize that their approach to an incident may escalate or de-escalate the situation or influence whether the use of force becomes necessary and the amount of force used.

4. While the ultimate objective of every law enforcement encounter is to protect the public, nothing in this policy requires a member expose themselves to possible physical injury before applying reasonable force.
5. Over the course of their careers, the Bureau expects members to develop and use skills and abilities that allow them to regularly resolve confrontations while minimizing the need to use force. Members are to be aware that this directive is more restrictive than state or federal laws.
6. The Bureau will train members in all categories of force and de-escalation techniques to help them safely and effectively resolve confrontations. However, the Bureau recognizes that each situation is unique and presents its own challenges, and expects members to adapt and apply Bureau training principles reasonably in unanticipated situations.
7. Members shall attempt to avoid or minimize the use of force against individuals in actual or perceived mental health crisis or those with mental illness and direct such individuals to the appropriate services, where possible.
8. This directive also applies to off-duty use of force when the member engages in police action.

Procedure:

1. De-escalation.
 - 1.1. Proactive De-escalation: Preventing the Need to Use Force.
 - 1.1.1. Members shall use de-escalation techniques, when feasible.
 - 1.1.2. De-escalation techniques provide members the opportunity to stabilize the scene or reduce the necessity for force so that more time, options and resources are available to resolve the situation. Members shall take proactive steps to eliminate the immediacy of the threat, establish control, and minimize the need for force.
 - 1.1.2.1. De-escalation techniques include, but are not limited to:
 - 1.1.2.1.1. Recognizing the signs and symptoms of mental health crisis or when a person is experiencing a condition that alters their perception or decision making, and adapting the member's approach accordingly;
 - 1.1.2.1.2. Using procedurally just techniques, such as verbal and/or non-verbal actions, to calm an agitated person and promote rational decision making;
 - 1.1.2.1.3. Creating opportunities to talk to a person and give them voice;
 - 1.1.2.1.4. Allowing the person appropriate time to respond to direction;
 - 1.1.2.1.5. Communicating with the person from a safe position using verbal persuasion, advisements, or warnings;
 - 1.1.2.1.6. Decreasing exposure to a potential threat by using distance, cover, or concealment;
 - 1.1.2.1.7. Placing barriers between an uncooperative person and an officer;
 - 1.1.2.1.8. Ensuring there are an appropriate number of members on scene;

- 1.1.2.1.9. Containing a threat;
- 1.1.2.1.10. Moving to a safer position; and
- 1.1.2.1.11. Avoiding physical confrontation, unless immediately necessary.
- 1.1.2.2. When practical and appropriate, members shall contact specialized units to respond to or assist with calls. Specialized units may assist with de-escalation, disengagement, mental health crisis response, tactics, negotiation, or otherwise safely resolving the incident.
- 1.1.2.3. To avoid confusion, members shall establish and maintain one-on-one communication with the person and avoid giving simultaneous directions or having multiple members verbally engaging the person.
- 1.1.3. Members shall consider a disengagement plan when the benefits to be gained by police intervention are clearly outweighed by the risks associated with the call.

1.2. Reactive De-escalation: Reducing Force.

- 1.2.1. Members shall reduce their force as they recognize, or should reasonably recognize, that a person's resistance is decreasing. Members shall use only the amount of force reasonably calculated to establish or maintain control. This may include reducing the number of members who are using force.

- 1.3. De-escalation does not always require members to delay reasonable action. De-escalation is not a set of rigid rules. Rather, de-escalation is a philosophy and skill to apply when feasible.

2. Authorized Use of Force.

2.1. Constitutional Force Standard (*Graham* Standard): Force Performance Requirements.

- 2.1.1. Members shall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable under the totality of the circumstances.
- 2.1.2. When determining whether to use force, members must balance the individual's Fourth Amendment rights against the government's interest. At a minimum, members shall consider the following three factors prior to using force:
 - 2.1.2.1. **Threat.** Whether the individual poses a threat to the safety of officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.
 - 2.1.2.2. **Severity.** The severity of the crime at issue.
 - 2.1.2.3. **Active Resistance or Evading.** Whether the individual is actively resisting control or attempting to evade.
- 2.1.3. A reasonableness inquiry is not limited to these factors, and the Bureau will evaluate a member's use of force based on the totality of the circumstances and all policy requirements.

2.2. Additional Member Considerations Before and During a Force Incident.

- 2.2.1. When determining whether to use force, members shall consider, when feasible:
 - 2.2.1.1. All available information, including:
 - 2.2.1.1.1. Observed behavior (e.g., perceived mental illness or mental health crisis);

- 2.2.1.1.2. Reports from other members or witnesses;
 - 2.2.1.1.3. Known mental health history; *and*
 - 2.2.1.2. Whether the person's lack of compliance is a deliberate attempt to resist or is affected by an inability to comply based on factors including, but not limited to:
 - 2.2.1.2.1. Medical conditions;
 - 2.2.1.2.2. Cognitive impairment;
 - 2.2.1.2.3. Developmental or physical limitation;
 - 2.2.1.2.4. Language barrier;
 - 2.2.1.2.5. Drug or alcohol impairment; or
 - 2.2.1.2.6. Mental health crisis.
 - 2.2.2. When a member reasonably believes that another person is about to attempt suicide or inflict serious physical self-injury, the member may use force on the person to the extent that the member reasonably believes it necessary to prevent the result.
- 2.3. Member Responsibilities Regarding Force Use.
- 2.3.1. Members shall not create a need to use force by placing themselves or others in jeopardy, without substantial justification for not following recommended practices.
 - 2.3.2. Members must justify each application of force. When feasible, members shall re-evaluate the need for continued force in between application of force.
 - 2.3.3. When a member uses force, they shall reduce the amount of force they use as the person's resistance decreases.
 - 2.3.4. When a member uses force, they should be supported by at least one member capable of providing immediate cover, if feasible.
 - 2.3.5. When feasible, members shall allow persons time to submit to arrest before they use force.
3. Duty to Intervene.
- 3.1. Members shall intervene to prevent or stop another member from using force the intervening member knows or reasonably should know is unlawful or out-of-policy force, unless the intervening member cannot intervene safely.
4. Prohibited Use of Force.
- 4.1. Members shall not use force against people who engage in passive resistance that does not impede a lawful objective.
 - 4.2. Members shall refrain from using force against individuals who are handcuffed, otherwise restrained, or already under control by officers, unless doing so is necessary to prevent the individual from causing physical injury to themselves or others.
 - 4.3. Members shall not use force against individuals who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a lawful objective.

- 4.4. Under no circumstances will a member use force solely because another member is using force.
5. Warnings.
 - 5.1. When feasible, members shall issue a clear and intelligible verbal warning, before using any force.
 - 5.1.1. Members should be mindful that there may be a language barrier or the individual may be d/Deaf or hard of hearing. In these circumstances, members shall attempt to identify other means by which they can issue a warning, if feasible.
 - 5.1.2. Members shall provide a description of the warning given in their use of force reports.
 - 5.1.3. If the member does not issue a warning, they shall provide a justification for the lack of warning in their use of force report.
 - 5.1.3.1. No written justification is necessary for vehicle intervention techniques or Category IV force.
 - 5.2. When feasible, members shall announce to other members their intent to use a less lethal weapon before using the weapon, in an attempt to avoid sympathetic fire.
6. Less Lethal Force.
 - 6.1. Less lethal force tactics provide members a range of options, from the use of bodily force to the use of less lethal weapons, for managing encounters with threatening or actively resistive persons. Although less lethal force is not likely to cause death or serious injury, members shall consider that the use of less lethal force can still result in death or serious injury.
 - 6.2. Restrictions.
 - 6.2.1. A person's mere flight from an officer is not a sufficient reason for the use of a less lethal weapon.
 - 6.2.2. Members shall not use less lethal weapons on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to attempt suicide, or is in the act of causing harm to themselves or others, or the member has probable cause that the person has committed a Measure 11 crime:
 - 6.2.2.1. Children who are known to be, or are obviously under the age of fifteen.
 - 6.2.2.2. An individual who is known to be, or is obviously pregnant.
 - 6.2.2.3. A person who is known to be, or is obviously medically fragile.
 - 6.2.3. Members shall refer to Directive 1015.00, Less Lethal Weapons, for additional guidance on the deployment of less lethal weapons.
7. Crowd Management Restrictions.
 - 7.1. This directive governs all force, including all force used during crowd management.
 - 7.2. Members shall refer to Directive 0635.10, Crowd Management/Crowd Control, for additional requirements.

8. Police Vehicle Intervention Strategies.
 - 8.1. With the exception of static box-ins that do not result in an injury or complaint of injury, intentional contact between a police vehicle and another occupied vehicle shall constitute a use of force for the purposes of this policy, and require completion of use of force reports and After Action reviews.
 - 8.2. Members shall refer to Directive 0630.05, Vehicle Interventions and Pursuits, for guidance on the authorized use of vehicle intervention strategies.
9. Deadly Force.
 - 9.1. Authorized Use of Deadly Force.
 - 9.1.1. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury; or,
 - 9.1.2. If necessary to prevent escape, a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threatened infliction of serious physical harm, and the member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or others.
 - 9.2. When feasible, members shall issue a clear and intelligible verbal warning before using deadly force.
 - 9.3. Additional Member Consideration When Using Deadly Force.
 - 9.3.1. Members should be mindful of the risks inherent in employing deadly force, which may endanger others. This directive and state law do not justify reckless or criminally negligent conduct by a member constituting an offense against or with respect to innocent persons whom the member is not seeking to arrest or retain in custody.
 - 9.4. Limitations and Restrictions on the Use of Deadly Force.
 - 9.4.1. Firearms.
 - 9.4.1.1. Members shall not fire warning shots.
 - 9.4.1.2. Members are authorized to use cover fire only if the member reasonably believes that an immediate threat of death or serious physical injury exists.
 - 9.4.2. Neck Holds.
 - 9.4.2.1. Members are prohibited from applying a neck hold, unless deadly force is authorized.
 - 9.4.3. Moving Vehicles.
 - 9.4.3.1. A moving vehicle may not always constitute a deadly threat. However, if a member reasonably believes the vehicle operator is targeting a pedestrian(s) or group of people, thereby creating an immediate risk of death or serious injury, the vehicle does constitute a deadly threat.
 - 9.4.3.2. Members shall not shoot at or from a moving vehicle unless they reasonably believe an immediate threat of death or serious physical injury exists.

9.4.3.3. Members shall consider whether the threat to the member or other persons (including all vehicle occupants) is increased by incapacitating the vehicle operator. If the operator is incapacitated, the unguided vehicle may remain a threat to anyone in its path. Members shall weigh the threat of incapacitating the driver against the threat posed by allowing the driver to maintain control of the vehicle.

9.4.3.3.1. Members shall also consider the challenges of target, backstop, stability, and aiming when deciding whether to use deadly force in this circumstance.

9.4.3.4. Prohibitions.

9.4.3.4.1. Members shall not intentionally position themselves in the path of a moving vehicle or in a location that is clearly vulnerable to vehicular attack.

9.4.3.4.1.1. When feasible, members shall move out of the path of a vehicle, rather than discharging their firearm at the vehicle or its occupants.

9.4.3.4.2. Members shall not enter an occupied vehicle that is readily capable of being driven (i.e., engine running or keys in the ignition) without substantial justification.

10. Post-Force Medical Requirements.

10.1. Members shall provide first aid and request emergency medical aid in accordance with Directive 0630.50, Emergency Medical Aid.

11. Force Reporting Requirements.

11.1. Members shall refer to Directive 0910.00, Use of Force Reporting, Review, and Investigation, for all force reporting requirements.

History:

- Established: 1/1/2014
- Effective: 11/15/2022
- Next Review: 11/15/2023

Chief's Signature:

1010.00, Use of Force

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS §161.015, General Definitions
- ORS 161.195, “Justification” described
- ORS 161.205, Use of physical force generally
- ORS 181A.708, Use of chemical incapacitants, kinetic impact projectiles and sound devices
- DIR 3450305.00, Active Bystandership, Intervention, and Anti-Retaliation
- DIR 0315.30, Satisfactory Performance
- DIR 3300330.00, Internal Affairs, Complaint Intake and Processing
- DIR 3330333.00, Criminal Investigations of Police Bureau Employees
- DIR 3450345.00, Employee Information System
- DIR 4160416.00, Critical Incident - Temporary Altered Duty
- DIR 6300630.05, Vehicle Interventions and Pursuits
- DIR 6300630.45, Emergency Medical Custody Transports
- DIR 6300630.50, Emergency Medical Aid
- DIR 6340631.70, Investigation of Animal Problems
- DIR 6350635.10, Crowd Management/Crowd Control
- DIR 6400640.02, Photography and Digital Imaging
- DIR 8500850.20, Mental Health Crisis Response
- DIR 9000900.00, General Reporting Guidelines
- DIR 0910.00, Use of Force Reporting, Review, and Investigation
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1015.00, Less Lethal Weapons and Tools
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- ~~Active Aggression: A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs.~~
- ~~Administrative Review: A written determination that requires the gathering and evaluating of information to develop a course of action.~~
- ~~After Action Report: A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.~~
- ~~Arcing: Activating a conducted electrical weapon (CEW) without discharging the probes or making contact with a subject, to serve as a warning to the subject.~~
- Boxing In: -A coordinated tactic of making contact between police vehicles and a ~~subject~~subject vehicle to stop or prevent the start of a pursuit.

- ~~Complaint of Improper Force: A complaint by a subject or person at the scene, or while in police custody, of improper force during a police action. Complaints of improper force include complaints of inappropriate and/or excessive force.~~
- ~~Complaint of Physical Injury: An assertion by a person that a member caused the person physical injury.~~
 - Dynamic Box-In: A box-in performed on a vehicle that is in motion.
 - Static Box-In: A box-in performed on a vehicle that is not in motion, and that is not reasonably likely to cause physical injury or significant damage.
- Conducted Electrical Weapon (CEW): -A weapon, including Tasers, designed primarily to discharge electrical charges into a subjectperson that will cause involuntary muscle contractions and overrides the subject'sperson's voluntary motor responses.
- ~~CEW Application: The contact and delivery of an electrical impulse to a subject using a CEW.~~
- ~~CEW Cycle: An activation of the CEW for a duration of up to five seconds.~~
- Constitutional Force Standard- (Graham Standard): Under *Graham v. Connor* and subsequent cases, the federal courts have established that government when determining whether to use of force, members must comply withbalance the “reasonableness” requirement of theindividual’s Fourth Amendment. Under rights against the government’s interest. When using force under this standard, members must choose from theshall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable force options at a scene. See the definition of “objectively reasonable” below. under the totality of the circumstances.
- Cover Fire: ~~When a member discharges~~Member discharge of a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a subject, andperson, when direct action against the subjectperson is not feasible. -Cover fire is not intended to strike a subjectperson, but is meant only to prevent a subjectperson from taking further action against the police or others that could result in death or serious physical injury. ~~Cover fire can be dangerous and must be used with extreme caution. Cover fire is also intended to allow officers to take actions to resolve the situation, such as effecting a rescue, advancing or retreating, or delivering chemical agents.~~
- ~~Critical Firearm Discharge: Each discharge of a firearm by a member. This term includes discharges at persons where no one is struck. This term is not intended to include discharges at the range or in training, or negligent discharges not intended as an application of force, which are still subject to administrative investigation.~~

- Crowd Management: A public security practice in which crowds are managed to prevent the outbreak of crowd rushes, affrays, fights or riots, or in which an assembly, protest or demonstration is dispersed.
- Deadly Force, also known as/Lethal Force: -Any use of force likely to cause death or serious physical injury, including the use of a firearm, ~~carotid~~ neck hold, or strike to the head, neck or throat with a hard object.
- De-escalation: -A deliberate attempt to prevent or reduce the amount of force necessary to safely and effectively resolve ~~the confrontation.~~ confrontations.
- ~~Drive Stun: The process of applying energy to a subject through the terminal on a cartridge or conducted electrical weapon.~~
- Feasible: When time and safety allow for a particular action.
- Force: -Physical coercion used to effect, influence, or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. -Control holds and handcuffing without resistance do not constitute force.
- Immediate Cover: - A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).
- ~~Improper Use of Force: The application of force where there is insufficient justification for its use, where the use of force is more than is objectively necessary or that violates policy.~~
- Involved Member: -For ~~the purposes of~~ this directive, ~~1010.00, Use of Force~~, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- Lawful Objective: Any reason for police action that is valid under the law. Examples include, but are not limited to: arresting, detaining, or searching a person; overcoming resistance or preventing escape; preventing the commission of a crime; defending self or others; preventing a person from self-harm; restricting access to an area in an emergency.
- Less Lethal Force: ~~A force application~~ Force employed that is ~~not~~ neither likely nor intended ~~or expected~~ to cause death or serious physical injury ~~and that is commonly understood to have.~~
- Less Lethal Weapon: An apprehension or restraint tool that, when used as designed and intended, is less potential for causing likely to cause death or serious physical injury than a conventional, ~~more~~ lethal police tactics. ~~Nonetheless, use of less-lethal force can result in death or serious injury.~~ weapon such as a firearm.

- ~~Less Lethal Weapons: Weapons designed and intended to apply less lethal force. These weapons include, but are not limited to, CEWs, impact weapons, impact munitions, aerosol restraints.~~
- Mental Health Crisis:- An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g., disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.
- Mental Illness:- Health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. Alterations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.
- ~~Misconduct: Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.~~
- Necessary: -No objectively reasonable and effective alternative presently exists to ~~effect~~ achieve a lawful ~~purpose~~ objective.
- ~~Non-Disciplinary Corrective Action: Action other than discipline taken by a PPB supervisor to enable or encourage a member to improve their performance.~~
- Neck hold: When a member knowingly uses physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person. This also includes the carotid restraint hold or lateral vascular neck restraint. A neck hold shall be considered deadly (lethal) force.
- Objectively ~~reasonable~~: Reasonable: The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms “reasonable” and “reasonably” in this policy refer to objective reasonableness. All assertions of a member’s knowledge, intent, deliberateness, or inadvertence under this policy must be objectively reasonable and the Bureau shall assess all assertions under the objective reasonableness standard.
- ~~Passive Resistance: A person’s non-cooperation with a member that does not involve violence or other active conduct by the individual.~~

- Physical Injury:- As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- Physical Police Action: Any circumstance, on or off duty, in which a sworn member exercises or attempts to exercise police authority. This includes, but is not limited to, stops, searches, arrests, and use of force.
- Procedural Justice: The idea of fairness in process, recognizing that a person's perception of fairness is strongly impacted by the quality of their experiences and not only the end result of those experiences.
- Resistance: Opposition or obstruction directed towards an officer that impedes a lawful objective. Resistance may consist of the following:
 - Passive Resistance: Non-compliance or non-cooperation with an officer's lawful order that is non-violent, and does not involve active conduct or pose an immediate threat to the officer or the public.
 - Active Resistance: A person's physical attempt(s) to evade a member's control that does not rise to the level of active aggression or lawful order.
- ~~Probe Cartridge: A device that contains two probes connected to light gauge wire that is propelled and attaches to the subject upon activation of the CEW.~~
- ~~Pursuit Intervention Techniques (PIT): A driving technique designed to stop a fleeing motorist safely and quickly by making contact with the fleeing car at a specific point on the vehicle, which throws the car into a spin and brings it to a stop.~~
- ~~Ramming: The use of an emergency (police) vehicle, other than in a pursuit intervention technique or boxing-in maneuver to purposely cause contact with another vehicle in order to disable the vehicle.~~
- Serious Physical Injury:- As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
- ~~Serious Use of Force: (1) all uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part or organ; (2) all critical firearm discharges by a member; (3) all uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor; (4) all head, neck and throat strikes with an object or carotid neck holds; (5) force used upon juveniles known or reasonably assumed to be under fifteen or individuals known or reasonably assumed to be pregnant; (6) all uses of force by a member resulting in a loss of consciousness; (7) more than two applications of a CEW on an individual during a single interaction, regardless of the mode or duration of the application, regardless of whether the~~

~~applications are by the same or different officers, and regardless of whether the CEW application is longer than 15 seconds, whether continuous or consecutive; (8) any strike, blow, kick, electronic control weapon system cycle, or similar use of force against a handcuffed, otherwise restrained, under control, or in custody subject, with or without injury; and (9) any use of force referred by a member's supervisor to Professional Standards Division (PSD) which PSD deems serious.~~

- ~~Takedown: Physical coercion used by a member to affect, direct, or influence a person to go to the ground not under their own control.~~
- Totality of the Circumstances: The facts and context of an incident known to the member at the time of the incident, including, but not limited to:
 - Graham Standard Factors (threat, severity of the offense, and active resistance or evading).
 - Whether the person is experiencing an actual or perceived mental health crisis.
 - Whether the person is impaired by drugs or alcohol, or otherwise incapacitated.
 - Number of officers and suspects.
 - Feasibility of using de-escalation techniques or non-force tactics.
 - Suspect possession of a weapon(s).
 - Availability of cover officers.
 - Environmental factors.
- Warning ~~shot~~: Shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.
- Witness ~~member~~: Member: For ~~the purposes of this directive, 1010.00, Use of Force,~~ a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding ~~the another member's use of force by another member, and other than observing the incident, did not use force themselves. Additionally, a member who observes or has knowledge of the events surrounding or~~ a member's direction to another to use force, and did not use force themselves.

Policy:

1. The Portland Police Bureau is committed to upholding the civil rights of all individuals, protecting human life and property, and maintaining civil order. ~~The Bureau's~~ This commitment ~~to public safety~~ includes ensuring the welfare of members of the public, and its officers and professional staff, with an emphasis on the sanctity of life and policing with respect.
2. The ~~Portland Police~~ Bureau recognizes that ~~this commitment may require~~ members may need to use force. ~~The~~ in the performance of their duties. In these circumstances, the community expects and the ~~Portland Police~~ Bureau requires that members use only the objectively reasonable force necessary ~~to perform their duties and overcome the threat or resistance of the subject under~~ based on the totality of the circumstances. Members who violate these values by using objectively unreasonable force erode the confidence of the community and

may expose themselves, those present, and the greater population to unnecessary danger; thus, objectively unreasonable uses of force shall result in corrective action and/or discipline, up to and including termination.

3. Members should recognize that their approach to an incident may escalate or de-escalate the situation or influence whether the use of force becomes necessary and the amount of force used.

~~3.4.~~ While the ultimate objective of every law enforcement encounter is to protect the public, nothing in this policy requires a member ~~to retreat or be exposed~~ expose themselves to possible physical injury before applying reasonable force.

~~4.5.~~ Over the course of their careers, the Bureau expects members to develop and use skills and abilities that allow them to regularly resolve confrontations while minimizing the need to use force. Members are to be aware that this ~~Directive~~ directive is more restrictive than state or federal laws.

~~5.6.~~ The Bureau ~~is dedicated to providing training will train members~~ in all categories of force and de-escalation techniques, ~~as well as providing sufficient resources,~~ to help ~~members~~ them safely and effectively resolve confrontations ~~through the application of de-escalation tools and lower levels of force. When feasible, members are expected to use de-escalation tactics in order to avoid the need for or reduce the amount of force.~~ However, the Bureau recognizes that each situation is unique and presents its own challenges. ~~Members are expected,~~ and expects members to adapt and apply Bureau training principles reasonably in unanticipated situations.

~~6.7.~~ Members shall attempt to avoid or minimize the use of force against individuals in actual or perceived ~~behavioral or~~ mental health crisis or those with mental illness and direct such individuals to the appropriate services, where possible.

~~7. Member accountability is integral to building and maintaining community trust. The Bureau is committed to institutionalizing systems of accountability and establishing transparent reporting practices. When force is used, the Bureau is dedicated to reviewing, reporting and investigating member actions to determine if the force used was in accordance with Bureau training and policy. This policy establishes reporting and investigative guidelines for all use of force. It includes the specific reporting requirements for all force incidents and the completion of police reports and After Action reports, as defined in this Directive.~~

~~8. The Bureau recognizes that the use of force may have an emotional impact on all involved. Members are encouraged to take proactive steps to mitigate these impacts through positive interactions with subjects and concerned community members following such an event.~~

8. This directive also applies to off-duty use of force when the member engages in police action.

Procedure:

1. De-escalation:

1.1. Proactive De-escalation: Preventing the Need to Use Force.

1.1.1. Members shall use de-escalation techniques, when ~~time and circumstances reasonably permit.~~ feasible.

~~1.1.1.~~1.1.2. De-escalation techniques provide members the opportunity to stabilize the scene or reduce the necessity for ~~or intensity of~~ force so that more time, options and resources are available to resolve the ~~confrontation~~situation. Members shall take proactive steps to eliminate the immediacy of the threat, establish control, and minimize the need for force.

1.1.2.1. De-escalation techniques include, but are not limited to: ~~1) using verbal~~

1.1.2.1.1. Recognizing the signs and symptoms of mental health crisis or when a person is experiencing a condition that alters their perception or decision making, and adapting the member's approach accordingly;

1.1.2.1.2. Using procedurally just techniques, such as verbal and/or non-verbal actions, to calm an agitated subjectperson and promote rational decision making; ~~2) allowing~~

1.1.2.1.3. Creating opportunities to talk to a person and give them voice;

1.1.2.1.4. Allowing the subjectperson appropriate time to respond to direction; ~~3) communicating~~

1.1.2.1.5. Communicating with the subjectperson from a safe position using verbal persuasion, advisements, or warnings; ~~4) decreasing~~

1.1.2.1.6. Decreasing exposure to a potential threat by using distance, cover, or concealment; ~~5) placing~~

1.1.2.1.7. Placing barriers between an uncooperative subjectperson and an officer; ~~6) ensuring~~

1.1.2.1.8. Ensuring there are an appropriate number of members on scene; ~~7) containing~~

1.1.2.1.9. Containing a threat; ~~8) moving~~

1.1.2.1.10. Moving to a safer position; and ~~9) avoiding~~

~~1.1.1.1.1.~~1.1.2.1.11. Avoiding physical confrontation, unless immediately necessary.

~~1.1.1.2.~~1.1.2.2. When practical and appropriate, members shall ~~consult with and/or call~~contact specialized units to respond, ~~including but not limited to those related to behavioral~~ to or assist with calls. Specialized units may assist with de-escalation, disengagement, mental health crisis response, tactics and/or, negotiation, ~~to assist in de-escalating the situation or devising a disengagement strategy~~ or otherwise ~~assist in~~ safely resolving the incident.

~~1.1.1.3.~~1.1.2.3. To avoid confusion, members shall establish and maintain one-on-one communication with the subjectperson and avoid giving simultaneous directions or having multiple members verbally engaging the subjectperson.

~~1.1.~~ Members shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to: ~~1) medical conditions; 2) mental impairment; 3) developmental disability; 4) physical limitation; 5) language barrier; 6) drug or alcohol impairment; and 7) mental health crisis.~~

~~1.1.2.1.1.3.~~ Members shall consider a disengagement plan when the benefits to be gained by police intervention are clearly outweighed by the risks associated with the call.

~~1.2.~~—When responding to and managing scenes involving persons in mental health crisis and when time and circumstances permit, members shall consider using disengagement and de-escalation techniques, as well as devising a response plan through the ROADMAP tool. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for additional guidance regarding ROADMAP and encounters with individuals with known or perceived mental illnesses or experiencing mental health crisis.

~~1.2.1.~~—Tactics in ROADMAP can be used as a stand-alone tactic, or they may be overlapped with other tactics to create a plan. Plans may need to be altered several times during an incident as it evolves, and members should be prepared to switch to other tactics as the totality of the circumstances changes.

~~1.2.~~ When safe under the totality of circumstances, members shall consider disengagement as a tactic to Reactive De-escalation: Reducing Force.

~~1.2.1.1.~~—Members shall reduce undue safety risks to the member, the involved person(s) or others.

~~1.3.~~—When their force is used, the amount of force used, including the number of members who use force, shall be reduced as they recognize, or should reasonably recognize, that a person's resistance decreases. Only is decreasing. Members shall use only the amount of force reasonably calculated to establish or maintain control ~~shall be used.~~

~~1.1.3.1.2.1.~~ Members shall refrain from using force against individuals who. This may include reducing the number of members who are already under control by officers or who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a valid law enforcement function. Members must balance the governmental interest to take action in service of the public against the rights of individuals involved using force.

1.3. De-escalation does not always require members to delay reasonable action. De-escalation is not a set of rigid rules. Rather, de-escalation is a philosophy and skill to apply when feasible.

2. **Authorized Use of Force.**

2.1. Constitutional Force Standard (*Graham* Standard): Force Performance Requirements.

2.1.1. Members are authorized to shall only use force necessary to accomplish a lawful objective, and the force must be objectively reasonable under the totality of the circumstances.

2.1.2. When determining whether to use force, members must balance the individual's Fourth Amendment rights against the government's interest. At a minimum, members shall consider the following three factors prior to using force:

- 2.1.2.1. **Threat.** Whether the individual poses a threat to the safety of officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.
- 2.1.2.2. **Severity.** The severity of the crime at issue.
- 2.1.2.3. **Active Resistance or Evading.** Whether the individual is actively resisting control or attempting to evade, permitted by this
- 2.1.1.2.1.3. A reasonableness inquiry is not limited to these factors, and the Bureau will evaluate a member's use of force based on the totality of the circumstances and all policy in order to requirements.

2.2. **Additional** Prevent Member Considerations Before and During a Force Incident.

- 2.2.1. When determining whether to use force, members shall consider, when feasible:
- 2.2.1.1. All available information, including:
- 2.2.1.1.1. Observed behavior (e.g., perceived mental illness or terminat mental health crisis);
- 2.2.1.1.2. Reports from other members or witnesses;
- 2.2.1.1.3. Known mental health history; and
- 2.1.1.1.2.2.1.2. Whether the ~~commission or attempted commission~~ person's lack of compliance is a deliberate attempt to resist or is affected by an offense; inability to comply based on factors including, but not limited to:
- 2.2.1.2.1. Lawfully take a Medical conditions;
- 2.2.1.2.2. Cognitive impairment;
- 2.2.1.2.3. Developmental or physical limitation;
- 2.2.1.2.4. Language barrier;
- 2.2.1.2.5. Drug or alcohol impairment; or
- 2.2.1.2.6. Mental health crisis.
- 1.3.1. — When a member reasonably believes that another person into custody, make an arrest or prevent an escape;
- 1.3.2. — Prevent a is about to attempt suicide or inflict serious physical self-inflicted injury;
- 1.3.3. — Defend the member or other person from the use of physical force; or,
- 1.3.4. — Accomplish some official purpose or duty that is authorized by law or judicial decree.

2. — **Warning Issuance.**

- 2.1.2.2.2.2. Unless it would present a danger to, the member(s) or others, members shall issue a clear and intelligible verbal warning or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to using any force. may use force on the person to the extent that the member reasonably believes it necessary to prevent the result.

2.3. **Member Responsibilities Regarding Force Use.**

- 2.1.3.2.3.1. Members shall provide a description of the warning given in their use of force reports. If no warning was given, members shall provide a not create a need to

~~use force by placing themselves or others in jeopardy, without substantial justification for the lack of warning not following recommended practices.~~

~~2.1.1.1. — No written justification is necessary for the lack of warning. Members must justify each application of a warning for the following:~~

~~2.1.1.1.1. — Vehicle intervention techniques; and~~

~~2.1.1.1.2. — Category IV force.~~

~~2.1.4.2.3.2. — Prior to using a less lethal weapon, When feasible, members shall, when feasible, warn or announce to other members their intent to use the tool, in an attempt to avoid sympathetic fire. re-evaluate the need for continued force in between application of force.~~

~~2.3.3. — When a member uses force, they shall reduce the amount of force they use as the person's resistance decreases.~~

~~2.3.4. — When a member uses force, they should be supported by at least one member capable of providing immediate cover, if feasible.~~

~~2.3.5. — When feasible, members shall allow persons time to submit to arrest before they use force.~~

3. Duty to Intervene.

~~3.1. Members shall intervene to prevent or stop another member from using force the intervening member knows or reasonably should know is unlawful or out-of-policy force, unless the intervening member cannot intervene safely.~~

3.4. Prohibited Use of Force.

~~3.1.4.1. — Members shall not use force against people who engage in passive resistance that does not impede a lawful objective. Physically moving a subject engaged in passive resistance is permitted when it is necessary and objectively reasonable.~~

~~2.2. — Members are prohibited from using force for interrogation or torture.~~

~~4.2. Members shall refrain from using force against individuals who are handcuffed, otherwise restrained, or already under control by officers, unless doing so is necessary to prevent the individual from causing physical injury to themselves or others.~~

~~4.3. Members shall not use force against individuals who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a lawful objective.~~

~~3.2.4.4. — Under no circumstances will a member use force solely because another member is using force.~~

3. — **Graham Standard: Force Performance Requirements.**

~~3.1. — To comply with this Directive and satisfy the constitutional standard, members shall only use force that is objectively reasonable under the totality of circumstances. When determining to use any force, members must balance the individual's Fourth Amendment rights against the government's interest. Members shall at least consider the following three criteria in making a decision to use force:~~

5. Warnings.

- 3.1.1. ~~Threat.~~ Whether the individual poses an immediate threat to the safety of the officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.
- 3.1.2. ~~Severity.~~ The severity of the crime at issue.
- 3.1.3. ~~Active Resistance or Evading.~~ ~~Whether the individual is actively resisting control or attempting to evade.~~ When force is used, the amount of force used, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.
- 3.2. ~~Though the above three factors are of primary consideration, a reasonableness inquiry is not limited to these factors and force will be evaluated under the totality of the circumstances.~~
- 3.3. ~~Member Considerations for Use of Force.~~
- 3.3.1. ~~Members should recognize that their approach to confrontations may influence whether force becomes necessary and the amount force that must be used.~~
- 3.3.2. ~~Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with the Bureau's training without a substantial justification for variation from recommended practices.~~
- 3.3.5.1. ~~When feasible, members shall allow individuals time to submit to arrest issue a clear and intelligible verbal warning, before using any force is used.~~
- 3.4. ~~Other Member Responsibilities.~~
- 5.1.1. ~~Members must individually justify each independent applications should be mindful that there may be a language barrier or the individual may be d/Deaf or hard of hearing. In these circumstances, members shall attempt to identify other means by which they can issue a warning, if feasible.~~
- 5.1.2. ~~Members shall provide a description of the warning given in their use of force reports.~~
- 5.1.3. ~~If the member does not issue a warning, they shall provide a justification for the lack of warning in their use of force report.~~
- 5.1.3.1. ~~No written justification is necessary for vehicle intervention techniques or Category IV force.~~
- 3.4.5.2. ~~When feasible, members shall re-evaluate the need for continued force in between independent uses of force announce to other members their intent to use a less lethal weapon before using the weapon, in an attempt to avoid sympathetic fire.~~
- 3.4.1. ~~Members have a duty to reasonably intercede to prevent the use of unlawful force by another member.~~
- 3.4.2. ~~Members shall take into account all available information, including observed behavior, reports from other members or witnesses, known mental health history and perceived mental illness or mental health crisis.~~
- 3.4.3. ~~During a confrontation with an individual known or perceived to be in mental health crisis, members must recognize and reasonably balance the governmental~~

~~interest in providing care to the individual with the need for force. Members shall call in specialized units when practical.~~

~~3.4.4. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for intervention techniques regarding individuals with known or perceived mental illnesses or experiencing a mental health crisis.~~

4.6. Less Lethal Force.

~~4.1.6.1. Less lethal force provides members with additional tactics or provide members a range of options, from the use of bodily force to the use of less lethal weapons, for managing encounters with threatening or actively resistive subjects. However persons. Although less lethal force is not likely to cause death or serious injury, members shall consider that the use of less lethal force can still result in death or serious injury.~~

Restrictions

6.2. .

~~6.2.1. A person's mere flight from an officer is not a sufficient reason for the use of a less lethal weapon.~~

~~4.1.1.6.2.2. Members shall not use less lethal weapons on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to ~~commit~~ attempt suicide, or is in the act of causing harm to themselves or others, or the member has probable cause that the ~~subject~~ person has committed a Measure 11 crime:~~

~~4.1.1.1.6.2.2.1. Children who are known to be, or are obviously under the age of fifteen.~~

~~4.1.1.2.6.2.2.2. An individual who is known to be, or is obviously pregnant.~~

~~4.1.1.3.6.2.2.3. A person who is known to be, or is obviously medically fragile.~~

~~3.5. Members shall not use any less lethal weapons against individuals who are handcuffed or otherwise restrained, and under control.~~

~~3.6. Additional rules for Bureau-authorized less lethal weapons are outlined below:~~

~~3.6.1. Impact Weapons:~~

~~3.6.1.1. Authorized Uses:~~

~~3.6.1.1.1. In response to active aggression:~~

~~3.6.1.1.1.1. When striking, members should only use the Bureau-issued baton. Use of any other impact tool is strongly discouraged and is appropriate only when the member reasonably believes that other authorized physical force responses are not available.~~

~~3.6.1.1.1.2. Members shall make reasonable efforts to ensure that impact weapons are used on preferred target areas, including arms and legs.~~

~~3.6.1.2. Restricted Uses:~~

~~3.6.1.2.1. Members striking or jabbing with a baton shall not deliberately target the head or throat, neck, spine, or groin unless deadly force would be authorized.~~

~~3.6.1.2.1.1.— Unintentional or inadvertent strikes to these restricted areas require following all other reporting procedures, with the addition of explicitly verbally notifying a supervisor that this has occurred. Reports must specifically address the circumstances and actions that related to striking restricted areas.~~

~~3.6.2.— *Impact Munitions.*~~

~~3.6.2.1.— *Authorized Uses.*~~

~~3.6.2.1.1.— In response to active aggression;~~

~~3.6.2.1.2.— To prevent suicide or immediate physical harm when reasonable in light of available options;~~

~~3.6.2.1.3.— To avoid the use of a higher level of force; or,~~

~~3.6.2.1.4.— To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves, or the escape of the subject presents a significant danger to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the impact munitions.~~

~~3.6.2.1.5.— Members shall make reasonable efforts to ensure that impact munitions are used on preferred target areas. Under seven yards, members will aim for the legs. Over seven yards, members will aim anywhere below the waist line except the groin.~~

~~3.6.2.1.6.— Members may use impact munitions on vicious or aggressive animals when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.~~

~~3.6.2.2.— *Restricted Uses.*~~

~~3.6.2.2.1.— Members shall not deliberately target a subject's head, neck, throat, or groin area, unless deadly force is authorized.~~

~~3.6.2.2.2.— Members are prohibited from using impact munitions against an individual for the purpose of crowd control or crowd management, except at the direction of a supervisor and with the approval of the Incident Commander (IC), unless there are exigent circumstances requiring deployment to prevent the threat of death or serious injury to a person.~~

~~3.6.3.— *Aerosol Restraints.*~~

~~3.6.3.1.— *Authorized Uses.*~~

~~3.6.3.1.1.— When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.~~

~~3.6.3.1.2.— Members may use aerosol restraints on vicious or aggressive animals, when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.~~

~~3.6.3.2.— *Restricted Uses.*~~

~~3.6.3.2.1.— **Aerosol restraints shall not be used on the operator of a motor vehicle that is immediately capable of being driven unless there is a**~~

~~substantial justification for doing so and no reasonable alternative is apparent.~~

~~3.6.3.2.2. — When deploying aerosol restraints, members shall attempt to minimize exposure to non-targeted persons.~~

~~3.6.3.3. — Actions Following the Use of Aerosol Restraints.~~

~~3.6.3.3.1. — Members shall make a reasonable effort to ensure that affected individuals are exposed to fresh air. Members shall, as soon as practicable, relieve the subject's discomfort by washing aerosol spray from the subject's eyes with water, unless the subject refuses by words or action.~~

~~3.6.3.3.2. — Members shall notify the receiving agency of aerosol restraint exposure, and the condition of the exposed individual taken into custody shall be continuously monitored. If the individual's condition appears to worsen, members shall notify medical personnel.~~

~~3.6.4. — Conducted Electrical Weapon System (CEW).~~

~~3.6.4.1. — Authorized Uses.~~

~~3.6.4.1.1. — In response to active aggression;~~

~~3.6.4.1.2. — To prevent suicide or immediate physical harm when reasonable in light of available options;~~

~~3.6.4.1.3. — To avoid the use of a higher level of force; or,~~

~~3.6.4.1.4. — To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents an immediate risk of physical injury to the public, members or themselves, or the escape of the subject presents a significant danger to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the CEW.~~

~~3.6.4.1.5. — Members may also utilize warning tactics such as arcing or activating the CEW lasers in an attempt to gain compliance. Members should point the CEW in a safe direction when arcing and never intentionally direct the lasers into the eyes of a person.~~

~~3.6.4.1.6. — Members may use a CEW on vicious or aggressive animals when the presence of those animals interferes with the safety of the members or the public, the execution of a police function, or completion of a mission.~~

~~3.6.4.2. — Restricted Uses.~~

~~3.6.4.2.1. — Members shall avoid the use of more than three CEW applications against the same individual, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use. Members shall not use a CEW for pain compliance against those a reasonable officer would believe have an actual or perceived mental illness or are in mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.~~

~~3.6.4.2.2. — Members shall not use a CEW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.~~

~~3.6.4.2.3. — Members shall not use a CEW when there is a significantly heightened risk of secondary injury (e.g., uncontrolled fall, drowning) to the~~

~~subject or others unless the member reasonably believes the threat or danger posed by the subject outweighs the risk of injury that might occur as a result of loss of control.~~

- ~~3.6.4.2.4. — Members shall not use a CEW on a handcuffed or otherwise restrained subject, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed subject.~~
- ~~3.6.4.2.5. — Members shall not draw both a firearm and a CEW at the same time.~~
- ~~3.6.4.2.6. — Members shall not use a CEW for crowd control or management purposes.~~
- ~~3.6.4.2.7. — Members shall not deliberately target the head, face, or groin. When tactically feasible and time reasonably permits, members shall target lower center mass for front shots.~~
- ~~3.6.4.2.8. — Members shall not use a CEW on subjects who are known or who the member should have reasonably known to have come in contact with flammables or those in areas where flammables are present.~~
- ~~3.6.4.3. — Additional considerations when using a CEW:~~
 - ~~3.6.4.3.1. — Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.~~
 - ~~3.6.4.3.2. — Only one member may intentionally deploy a CEW at any given time on a subject, except where lethal force would be permitted.~~
 - ~~3.6.4.3.3. — Members deploying a CEW operationally, if feasible, should be supported by at least one member capable of providing immediate cover.~~
 - ~~3.6.4.3.4. — Members shall make every reasonable effort to attempt handcuffing during or between each CEW cycle.~~
 - ~~3.6.4.3.5. — After one standard CEW cycle, the member shall re-evaluate the situation to determine if subsequent cycles are necessary; members shall issue a warning prior to each additional cycle and wait a reasonable amount of time to allow the subject to comply, unless doing so would present a danger to the member(s) or others. Members shall describe and explain the reasonableness of each CEW cycle in their use of force reports.~~
- ~~3.6.4.4. — Actions following the use of a CEW:~~
 - ~~3.6.4.4.1. — Involved member responsibilities:

 - ~~3.6.4.4.1.1. — If possible, members shall photograph consistent with Directive 640.02, Photography and Digital Imaging, the areas of probe strikes, whether probes penetrated the person's skin, left visible marks or only penetrated the person's clothing, before and after probe removal, as well as any marks, or lack of marks, left by drive stun. Consent should be obtained before photographing personally sensitive areas. All photographs shall be placed into evidence in accordance with Bureau policy.~~~~
 - ~~3.6.4.4.2. — Supervisor responsibilities:~~

~~3.6.4.4.2.1.— Verify evidence of CEW deployment is collected, including photographs of tags, cartridges, and probes.~~

~~3.6.4.4.2.2.— Verify appropriate medical services are summoned, if necessary.~~

~~3.6.5.— Canine Deployment.~~

~~3.6.5.1.— Authorized Uses.~~

~~3.6.5.1.1.— To protect the canine officer, the police canine or members of the community from an immediate threat.~~

~~3.6.5.1.2.— To apprehend or control subjects reasonably believed to be involved in a crime.~~

~~3.6.5.1.3.— To apprehend a fleeing criminal subject when the canine officer reasonably believes that probable cause exists to arrest a subject for a crime.~~

~~3.6.5.1.4.— To apprehend hiding subjects when it would be unsafe for officers to proceed into an area.~~

~~4.1.2.6.2.3. Members shall refer to the Canine Unit SOPs Directive 1015.00, Less Lethal Weapons, for additional guidance on the deployment of less lethal weapons.~~

~~3.6.5.2.— Restricted Uses.~~

~~3.6.5.2.1.— Members shall not use canines for crowd control or management purposes.~~

~~3.6.6.— Riot Control Agents (RCAs) or Area Impact Munitions.~~

~~3.6.6.1.— Authorized Uses in Crowd Control.~~

Under the direction of the

7. Crowd Management Restrictions.

7.1. This directive governs all force, including all force used during crowd management.

4.2.7.2. Members shall Incident Commander (CMIC), to disperse a crowd, when a demonstration or event becomes a civil disturbance, as defined in refer to Directive 6350635.10, Crowd Management/Crowd Control., for additional requirements.

~~3.6.6.1.1.— To stop or disrupt a group of individuals committing a crime or about to commit a crime, when other more discriminate methods are not feasible or reasonable, and uninvolved parties are unlikely to be subjected to the use of force.~~

~~3.6.6.1.2.— When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.~~

~~3.6.6.1.3.— In exigent circumstances to defend the member or others from physical injury when other, more discriminate methods of applying force are not feasible and uninvolved parties are unlikely to be subjected to the use of force.~~

~~3.6.6.2.— Restricted Use.~~

~~3.6.6.2.1.— Members shall not use RCAs or area impact munitions on a crowd engaged in passive resistance that does not impede a lawful objective.~~

~~3.6.6.2.2.— Members shall not deploy RCAs or area impact munitions to disperse a crowd when avenues of escape are unavailable to the crowd.~~

~~3.7. Restraint Device.~~

~~3.7.1. Hobble Restraint.~~

~~3.7.1.1. Authorized Uses.~~

~~3.7.1.1.1. To control a subject beyond the capability of handcuffs.~~

~~3.7.1.1.1.1. The hobble restraint may be used to supplement handcuffs. It shall not be used in lieu of handcuffs.~~

~~3.7.1.1.2. If a subject has demonstrated the intent to slip their handcuffs to the front, hobble restraints may be used on the upper arms or legs to prevent such an action.~~

~~3.7.1.1.3. Hobble restraints (straight leg restraint) may be used to secure a combative subject's legs together to prevent kicking.~~

~~3.7.1.1.4. A hobble may be used to secure an animal.~~

~~3.7.1.2. Restricted Uses.~~

~~3.7.1.2.1. Members shall not use the maximum restraint technique (i.e., securing a subject's knees or ankles in a straight leg restraint, then fastening the hobble to the handcuffs).~~

~~3.7.1.2.2. Once secured, a subject shall not be placed on their stomach for an extended period. If feasible, the subject should be placed the subject's side or in a seated position.~~

~~5.8. Police Vehicle Intervention Strategies.~~

~~5.1.8.1. IntentionalWith the exception of static box-ins that do not result in an injury or complaint of injury, intentional contact between a police vehicle and another occupied vehicle shall constitute a use of force for the purposes of this policy. ~~These techniques include, but are not limited to, Pursuit Intervention Technique maneuver (PIT), boxing in, and ramming, require completion of use of force reports and After Action reviews.~~~~

~~3.8. Use of vehicle intervention strategies shall require use of force reporting and After Action review pursuant to the reporting sections in this directive. Members should refer to the applicable force categories for reporting requirements.~~

~~5.2.8.2. Members shall refer to Directive ~~6300630~~.05, Vehicle Interventions and Pursuits, for ~~additional~~ guidance on the authorized use of ~~these~~ vehicle intervention strategies.~~

~~6.9. Deadly Force.~~

~~6.1.9.1. Authorized usesUse of deadly force:Deadly Force.~~

~~6.1.1.9.1.1. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury; or,~~

~~6.1.2.9.1.2. If necessary to prevent escape, a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime~~

involving the infliction or threatened infliction of serious physical harm, and the member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or others.

~~6.2.9.2. The member~~ When feasible, members shall ~~give issue~~ a clear and intelligible verbal warning ~~to the subject, if time, safety, and circumstances permit. before using~~ deadly force.

9.3. Additional Member Consideration When Using Deadly Force.

~~6.2.1.9.3.1. Members should be mindful of the risks inherent in employing deadly force, which may endanger others. Reckless or negligent use of deadly force is not justified in this Directive or state statute. This directive and state law do not justify reckless or criminally negligent conduct by a member constituting an offense against or with respect to innocent persons whom the member is not seeking to arrest or retain in custody.~~

Cover fire

9.4. Limitations and Restrictions on the Use of Deadly Force.

9.4.1. Firearms.

~~9.4.1.1. Members shall be investigated as a Category I not fire warning shots.~~

~~6.2.1.1.9.4.1.2. Members are authorized to use of deadly force and is cover fire~~ only ~~authorized~~ if the member reasonably believes that an immediate threat of death or serious physical injury exists.

9.4.2. Neck Holds.

~~3.9. Restrictions on the use of firearms as deadly force:~~

~~3.9.1. Members are prohibited from firing warning shots.~~

~~6.2.1.2.9.4.2.1. Additional applying a neck hold, unless deadly force is authorized uses for firearms:.~~

~~3.9.2. A member is authorized to discharge a firearm to stop an aggressive animal that poses a danger to the member or others or end the suffering of a badly injured animal. Members shall refer to Directive 631.70, Investigation of Animal Problems, for additional guidance.~~

~~6.2.2.9.4.3. Moving Vehicles.~~

~~6.2.2.1.9.4.3.1. A moving vehicle does may not presumptively always constitute a deadly force threat. However, if a member reasonably believes the vehicle operator is targeting a pedestrian(s) or group of people, thereby creating an immediate risk of death or serious injury, the vehicle does constitute a deadly threat.~~

~~6.2.2.2.9.4.3.2. Members shall not shoot at or from a moving or fleeing vehicle unless they reasonably believe an immediate risk threat of death or serious physical injury to the member or others exists.~~

~~3.9.3. Members are prohibited from intentionally positioning themselves in the path of a moving vehicle or in a location that is clearly vulnerable to vehicular attack.~~

~~3.9.4. When feasible, members shall move out of the path of a vehicle rather than discharging a firearm at the vehicle or its occupants.~~

~~6.2.2.3.9.4.3.3.~~ Members shall consider whether the threat to the member or other persons (including all vehicle occupants) is increased by incapacitating the vehicle operator. If the operator is incapacitated, the unguided vehicle may remain a threat to anyone in its path. Members shall weigh the threat of incapacitating the driver against the threat posed by allowing the driver to maintain control of the vehicle.

~~3.9.5. Members must be aware that shooting at a moving vehicle presents unique challenges of target and backstop.~~

~~6.2.2.3.1.9.4.3.3.1.~~ Members must be aware that shooting from a moving vehicle creates additional challenges of stability and aiming that must be considered in the decision when deciding whether to employ deadly force in this circumstance.

~~9.4.3.4. Prohibitions.~~

~~9.4.3.4.1.~~ Members shall not use poor tactics intentionally position themselves in the path of a moving vehicle or positioning as justification for shooting at or from a location that is clearly vulnerable to vehicular attack.

~~6.2.2.3.1.1.9.4.3.4.1.1.~~ When feasible, members shall move out of the path of a moving vehicle, rather than discharging their firearm at the vehicle or its occupants.

~~6.2.2.3.2.9.4.3.4.2.~~ Members are prohibited from entering shall not enter an occupied vehicle that is readily capable of being driven (i.e., engine running or keys in the ignition) without substantial justification.

~~3.10. Members shall refer to Directives 1020.00, Weapons Administration, and 1021.00, Weapons Qualifications, for additional guidelines regarding the issuance, qualification requirements, and secure storage of Bureau-issued weapons.~~

~~7.10.~~ Post-Force Medical Requirements.

~~3.11. Members shall summon medical services at the earliest available opportunity when a subject is injured, complains of injury following any use of force, or is a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile) who sustains Category I through III force (See Section 10). If an individual refuses medical evaluation, the refusal must be documented in an appropriate report. Members shall refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance.~~

~~3.12. When safe to do so, members shall render emergency first aid within the limits of their individual skills, training and available equipment until professional medical care providers arrive on the scene.~~

- 3.13.—~~The member shall continually monitor the person for changes in skin or lip color, breathing and levels of consciousness. If the individual's condition deteriorates, the member shall immediately notify Emergency Medical Services (EMS).~~
- 3.14.—~~Members shall provide known and reasonably necessary information to facilitate the injured person's transport to a medical facility for additional treatment if recommended by EMS. Refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance on transporting injured subjects.~~
- 3.15.—~~When transporting a person from hospital treatment to a correctional facility, members shall notify a corrections staff member of the extent of the person's injuries and medical treatment given, and provide the corrections staff with the person's medical release forms from the medical facility.~~
- 3.16.—~~If a person complains of or appears to be experiencing respiratory distress (e.g., positional asphyxia), members shall perform the following as soon as practical:~~
- 3.16.1.—~~If a member's body weight is impeding a subject's breathing, the member shall remove their body weight.~~
- 3.16.2.—~~Summon EMS.~~
- 3.16.3.—~~Check and continue to monitor the person's breathing and pulse until EMS arrives.~~
- 3.16.4.—~~If medically appropriate, place the person in a seated position or position the person on their side to facilitate breathing.~~
- 3.17.—~~Members shall follow protocols developed by the Bureau, in conjunction with medical professionals, on their responsibilities following CEW use. Conditions requiring medical treatment after deployment:~~
- 3.17.1.—~~When a CEW is deployed in probe mode:~~
- 3.17.1.1.—~~If the probes are embedded in the skin, Portland Fire and Rescue shall be summoned to remove the probes and provide medical treatment, if necessary. If the CEW is deployed outside of Portland Fire and Rescue's response area and medical treatment is mandated by this Directive or other injury, the fire department or EMS with jurisdiction shall be summoned.~~
- 3.17.1.2.—~~Portland Fire and Rescue shall be the first responder to CEW deployments that require only the removal of probes and no other medical treatment, other than removal and treatment of the wound caused by the CEW probes. To ensure a response from Portland Fire and Rescue only, members must advise the Bureau of Emergency Communications that Portland Fire and Rescue is needed to remove the CEW probes.~~
- 3.17.2.—~~When the CEW is deployed on a person in drive stun mode and no probes are deployed, EMS is not required on the scene, unless medical treatment is otherwise necessary:~~
- 3.17.2.1.—~~Members shall summon EMS if the CEW is deployed in drive stun mode on a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile).~~

~~3.18.—When any force is used on a person suffering or perceived to be suffering from excited delirium (before, during or after the application of force), members shall summon EMS to the scene. Members shall ensure the subject is examined at the scene. If in custody and EMS recommends transport, the subject will be transported to the hospital. If not in custody, and EMS declares the individual mentally competent, the individual can refuse treatment and transport.~~

~~4.—Categories of Review.~~

~~4.1.—Reporting and investigating requirements are determined by the type of force deployed, injury sustained, and/or complaint of injury. A supervisor who receives notification of a use of force shall respond to the scene to determine the appropriate level of investigation pursuant to the categories listed below. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.~~

~~4.2.—Category I: The application of deadly force, an in-custody death, and death that occurs as a result of member(s)' use of force.~~

~~4.2.1.—Category I force includes, but is not limited to:~~

~~4.2.1.1.—All critical firearm discharges by a member, except as authorized to stop an aggressive animal or end the suffering of a badly injured animal.~~

~~4.2.1.2.—In-custody deaths;~~

~~4.2.1.3.—Death as a result of member(s)' use of force;~~

~~4.2.1.4.—Carotid neck holds; and~~

~~4.2.1.5.—All intentional head, neck, and throat strikes with a hard object or when a member strikes the head of a subject against a hard object.~~

~~4.2.2.—Category I Review.~~

~~4.2.2.1.—The level of investigative response for Category I Force is governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.~~

~~4.3.—Category II: Other than deadly force, force resulting in hospital treatment or admission; force that is reasonably likely to cause enduring: pain, physical injury, disability or impairment of any body part, but does not result in death.~~

~~4.3.1.—Category II force includes, but is not limited to:~~

~~4.3.1.1.—All uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospital treatment, or an injury deemed to be serious by a member's supervisor;~~

~~4.3.1.2.—Any uses of force by a member on a subject that require hospital admission due to the force applied by a member;~~

~~4.3.1.3.—More than one simultaneous intentional CEW application on a subject at a time;~~

~~4.3.1.4.—Three or more CEW applications to the same person;~~

~~4.3.1.5.—CEW deployments on individuals who have an actual or perceived mental illness, or who are in mental health crisis;~~

~~4.3.1.6.—All launched impact munitions with contact;~~

- ~~4.3.1.7. — Impact weapon, with injury requiring hospital treatment;~~
- ~~4.3.1.8. — Firearm discharges to stop an aggressive animal;~~
- ~~4.3.1.9. — Canine bites;~~
- ~~4.3.1.10. — Takedown that causes injury requiring hospital treatment;~~
- ~~4.3.1.11. — Riot control agents and/or area impact munitions;~~
- ~~4.3.1.12. — Force used upon restricted persons (i.e., children under the age of fifteen, pregnant individuals, medically fragile);~~
- ~~4.3.1.13. — Force resulting in a loss of consciousness;~~
- ~~4.3.1.14. — Any strike, blow, kick or similar use of force against a handcuffed, otherwise restrained, under control, or in-custody subject, with or without injury; and~~
- ~~4.3.1.15. — Ramming as a vehicle intervention strategy.~~
- ~~4.3.2. — Category II Review.~~
 - ~~4.3.2.1. — For all force resulting in hospital admission, supervisors shall notify the Detective Division of the incident, and a detective shall respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.~~
 - ~~4.3.2.2. — For all force involving more than one simultaneous intentional CEW application on a subject, supervisors shall notify the Detective Division of the incident, and a detective may respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.~~
 - ~~4.3.2.3. — The use of force After Action report shall be reviewed through the chain of command, up to and including the Assistant Chief.~~
- ~~4.4. — Category III: Force that is reasonably likely to cause non-enduring: pain, disorientation, physical injury, or the complaint of pain.~~
 - ~~4.4.1. — Category III force includes, but is not limited to:~~
 - ~~4.4.1.1. — CEW deployment of one (1) or two (2) applications;~~
 - ~~4.4.1.2. — CEW deployment regardless of successful application or member intent;~~
 - ~~4.4.1.3. — Use of aerosol restraints;~~
 - ~~4.4.1.4. — Chemical agents used by SERT;~~
 - ~~4.4.1.5. — Use of impact weapon, without injury;~~
 - ~~4.4.1.6. — Physical injury or complaint of injury;~~
 - ~~4.4.1.7. — Complaint of improper force;~~
 - ~~4.4.1.8. — Launched impact munitions, without contact;~~
 - ~~4.4.1.9. — Takedown;~~
 - ~~4.4.1.10. — Strikes with the hands or feet; and~~
 - ~~4.4.1.11. — PIT maneuver as a vehicle intervention strategy.~~
 - ~~4.4.2. — Category III Review.~~
 - ~~4.4.2.1. — The use of force After Action report shall be reviewed through the chain of command, up to and including the RU Manager.~~
- ~~4.5. — Category IV: Force that is intended to establish control of a resistant subject, though not intended or reasonably likely to cause persistent pain or physical injury.~~
 - ~~4.5.1. — Category IV force includes, but is not limited to:~~

- 4.5.1.1. — Non-striking use of baton;
- 4.5.1.2. — Takedown performed in a completely controlled manner where there is minimal resistance and no injury;
- 4.5.1.3. — Handcuffing against resistance or control against resistance;
- 4.5.1.4. — Pointing of a firearm;
- 4.5.1.5. — Use of hobble restraint;
- 4.5.1.6. — Use of a less lethal weapon to stop a vicious or aggressive animal;
- 4.5.1.7. — Firearm discharges to end the suffering of a badly injured animal; and
- 4.5.1.8. — Boxing In maneuver as a vehicle intervention strategy.
- 4.5.2. — Category IV Review.
 - 4.5.2.1. — The use of force After Action report shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.
- 4.6. — Additional Considerations.
 - 4.6.1. — Supervisors have the discretion to elevate the category of any force investigation.
 - 4.6.2. — When multiple force options are used during an incident, the investigation shall be conducted at the highest applicable category.
 - 4.6.3. — If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.
 - 4.6.4. — An on-scene supervisor who reasonably believes that a use of force involves significant misconduct by a member shall immediately notify their immediate supervisor and PSD. The on-call PSD Lieutenant shall determine the degree of investigation required.
 - 4.6.5. — Force incidents that involve a vehicle may be classified under any category of force; the appropriate category will be determined by a member's supervisor and will depend on the totality of the circumstances. Refer to Directive 630.05, Vehicle Interventions and Pursuits, for additional guidance.
 - 4.6.6. — Specialty units, such as the Special Emergency Response Team (SERT), Rapid Response Team (RRT) or others, are not exempt from use of force reporting procedures, as defined in this directive.

Reporting first aid and request emergency

- 4.7. — ~~Member~~ Reporting of Force.
 - 4.7.1. — Members shall immediately notify a supervisor regarding any use of force, or any negligent or unintentional discharge of a less lethal weapon.
 - 4.7.2. — All members will notify a supervisor as soon as practical when a complaint of improper force, a complaint of physical injury, or actual injury to a subject in custody as defined within this Directive occurs or they become aware of the same.
 - 4.7.3. — All members involved in a Category II through IV use of force shall provide a candid and detailed verbal account of the event at the scene.
 - 4.7.4. — All members involved in a Category II through IV use of force shall submit use of force reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Involved members shall submit use of force reports prior to the conclusion of the shift, unless incapacitated. Involved members

- shall report all uses of force whether or not the subject is struck or affected by any weapon.
- ~~4.7.4.1. Members who use force in any police action while off duty shall comply with the reporting requirements of this section.~~
- ~~4.7.5. Members involved in a Category I use of force shall refer to Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, for reporting and investigation requirements for deadly force incidents.~~
- ~~4.7.6. All members who witness any use of force shall provide a candid and detailed verbal account of the event at the scene. Members who witness a Category I through III use of force shall also submit appropriate reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Witness members shall submit reports prior to the conclusion of the shift, unless incapacitated. Witness members shall report all uses of force whether or not the subject is struck or affected by any weapon.~~
- ~~4.7.7. Reports shall demonstrate that the member(s) made diligent efforts to locate witnesses and explain when circumstances prevented them from doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.~~
- ~~4.7.8. All reports related to use of force shall follow Directive 900.00, General Reporting Guidelines, regarding formatting, timeliness of completion, and submission.~~
- ~~4.7.9. In addition to those guidelines, regardless of force category or type, involved members shall also include a description of the following in their use of force reports:~~
- ~~4.7.9.1. The reason for the initial police presence.~~
- ~~4.7.9.2. The unique characteristics of the event.~~
- ~~4.7.9.3. Whether the individual or subject was known by the member to be mentally ill or in mental health crisis. If mental illness was present, members shall describe how they took that into account and how it impacted their decision making.~~
- ~~4.7.9.4. A description of the decision making at each significant point leading up to and during the event.~~
- ~~4.7.9.5. The force used, to include descriptive information regarding the use of any weapon.~~
- ~~4.7.9.6. Any observable injury to the subject, any complaint of injury or the absence of injury, including information regarding any medical aid or on-scene medical evaluation provided or refused by the subject, when applicable.~~
- ~~4.7.9.7. The level of resistance encountered by each officer that led to each separate use of force and, if applicable, any injuries to the subject(s) or member(s).~~
- ~~4.7.9.8. What, if any, de-escalation techniques were used and whether or not they were effective. If not used, the member shall provide justification as to how time and circumstances did not reasonably permit the member to utilize de-escalation techniques.~~

- ~~4.7.9.9. — Members shall include all relevant considerations found within this, and other appropriate, directives in their reports.~~
- ~~4.7.10. — For force Categories I through III, members shall provide a narrative account of the force they observed another member apply.~~
- ~~4.7.10.1. — Members shall immediately notify an on-duty supervisor of any use of force by another member that violates the constitutional standard as soon as safe to do so.~~
- ~~4.8. — Additional Reporting Guidelines for Less Lethal Weapon & Munition Use.~~
- ~~4.8.1. — The member shall complete and submit a use of force report documenting the incident. The use of force report shall contain:~~
- ~~4.8.1.1. — The specific circumstances that led to the discharge of the weapon.~~
- ~~4.8.1.2. — The name of the supervisor who was verbally notified, as well as the name of the responding supervisor, if different.~~
- ~~4.8.1.3. — A description of the warning given. If no warning was given, members shall state why.~~
- ~~4.8.2. — If the member who discharged the weapon is injured and unable to submit a use of force report, the reporting requirement for involved members can be delayed until the member is capable of completing the report. The member shall, in a timely manner, provide their supervisor with a Work Status Report which identifies any restrictions or limitations on the member until a specified date.~~
- ~~4.8.3. — Reporting of CEW Use.~~
- ~~4.8.3.1. — The report shall document:~~
- ~~4.8.3.1.1. — The specific circumstances leading to the use of the CEW.~~
- ~~4.8.3.1.2. — All warnings given to members and the subject. If no warnings were given, members shall document their justification for not issuing a warning.~~
- ~~4.8.3.1.3. — The distance from which the CEW was used.~~
- ~~4.8.3.1.4. — The location on the subject's body of the probe strike and the impact points.~~
- ~~4.8.3.1.5. — The serial numbers of all cartridges expended.~~
- ~~4.8.3.1.6. — The serial number of the CEW used.~~
- ~~4.8.3.1.7. — The name of the member designated as immediate cover, if applicable or present.~~
- ~~4.8.3.1.8. — The name of the supervisor who was verbally notified as well as the responding supervisor, if different.~~
- ~~4.8.3.1.9. — Whether EMS responded and the results of any medical evaluation, if applicable. If EMS was not summoned, the member shall provide a justification.~~
- ~~4.8.3.1.10. — Any evidence or complaints of injury or illness by the subject.~~
- ~~4.8.4. — Reporting of Canine Use.~~
- ~~4.8.4.1. — Canine handlers shall also complete a use of force report for all bites.~~
- ~~4.8.4.2. — Canine unit supervisors shall complete an After Action report for all directed and unintentional canine bites through channels to the appropriate Assistant Chief.~~

~~5. Supervisor Reporting and Investigation.~~

- ~~5.1. A supervisor who receives notification of a use of force shall respond to the scene unless extraordinary circumstances exist. In rare circumstances, safety or other practicality reasons may prevent a supervisor from responding directly to the scene, and instead necessitate that the supervisor respond to a proximate location.~~
- ~~5.2. Where necessary, the supervisor shall ensure that the subject upon whom force was used receives medical attention from an appropriate medical provider.~~
- ~~5.3. The supervisor shall conduct an administrative review and a thorough investigation of the use of force, consistent with this policy, gathering applicable evidence described in Section 13.4. of this policy.~~
 - ~~5.3.1. If a supervisor is involved in the use of force, they shall contact another supervisor to conduct the administrative review of the incident.~~
- ~~5.4. Supervisors shall personally speak to the involved member and make an inquiry sufficient to determine the nature of the event and the member's justification for the use of force.~~
- ~~5.5. Supervisors shall personally speak to the witness member(s) and make an inquiry sufficient to describe the nature of the force.~~
- ~~5.6. Supervisors shall interview members and witnesses individually and not in groups.~~
- ~~5.7. Supervisors shall make diligent efforts to document witness observations.~~
- ~~5.8. Supervisors shall immediately notify the shift supervisor and PSD regarding any use of force that could appear, to a reasonable supervisor, to violate the Constitutional Force standard; all members' Serious Use of Force; any use of force against persons who have actual or perceived mental illness; or any suspected significant member misconduct.~~
- ~~5.9. In the event that the supervisor suspects possible criminal conduct, the supervisor shall notify their shift supervisor, the on-call PSD Lieutenant, the branch Assistant Chief, and the Bureau's Detective Division.~~

~~6. Force After Action Reports.~~

- ~~6.1. For Category II-IV force incidents, the supervisor shall document the findings of the review and investigation in an After Action report, and forward the report through the chain of command.~~
- ~~6.2. The After Action report form serves as a checklist to ensure that supervisors carry out force investigation responsibilities. The Inspector, or Chief's designee, shall review the form for adequacy and relevance, at least annually, and revise as needed.~~

- 6.3. ~~For Category II-IV force incidents, supervisors shall complete an After Action report within 72 hours of the use of force.~~
- 6.4. ~~All force After Action reports or, in use of deadly force incidents, the investigator's report shall contain a detailed description and comprehensive account of the force. The report(s) shall include:~~
- 6.4.1. ~~Summary: a short one or two paragraph narrative that describes the significant facts of the event.~~
 - 6.4.2. ~~Involved Member statement: a narrative that describes the use of force.~~
 - 6.4.3. ~~Investigation: a description of what actions supervisors took and directions they gave on scene.~~
 - 6.4.4. ~~Discussion of force: a description of the nature of the force and the member's justification for the use of force.~~
 - 6.4.5. ~~Injuries: a description and photographs of the presence or absence of injuries to the subject or Bureau member involved in the use of force and if any medical treatment was administered, and by whom.~~
 - 6.4.6. ~~Subject statement: supervisors shall make an attempt to obtain a statement from the subject detailing the event and any injuries.~~
 - 6.4.7. ~~Witness Member statement: supervisors shall obtain a statement from the witness member(s) detailing their observation of the event.~~
 - 6.4.8. ~~Non-member witness statements: supervisors shall make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor shall ensure that the witness statements are documented in the appropriate report. Supervisors shall document circumstances that prevent them from identifying witnesses or obtaining contact information. Reports shall include all available identifying information for anyone who refuses to provide a witness statement.~~
 - 6.4.9. ~~Physical evidence: supervisors shall ensure that the administrative review includes collecting any physical or photographic/video evidence that may assist other reviewers in the chain of command in understanding the scene and event.~~
 - 6.4.10. ~~Critique Findings and Recommendations: the critique of findings and recommendations shall contain a thorough analysis of the incident. It shall address any applicable directives, whether or not members complied with such directives and any recommendations or actions taken to address issues encountered on scene or during the reporting process. Supervisors may also modify findings as appropriate and document modifications.~~
 - 6.4.10.1. ~~The authoring supervisor shall:~~
 - 6.4.10.1.1. ~~Review all use of force reports to ensure that they include information required per Bureau policy;~~
 - 6.4.10.1.2. ~~Evaluate the weight of the evidence;~~
 - 6.4.10.1.3. ~~Use a decision point approach to analyze each use of force;~~
 - 6.4.10.1.4. ~~Determine whether the member's actions appear consistent with Bureau policy;~~
 - 6.4.10.1.5. ~~Determine whether there was legal justification for the original stop and/or detention;~~

- ~~6.4.10.1.6. — Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed; and~~
- ~~6.4.10.1.7. — Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that they discuss poor tactical decisions with the member and that the discussion is documented in the Employee Information System (EIS).~~
- ~~6.4.10.2. — Supervisors in the chain of command review shall:~~
 - ~~6.4.10.2.1. — Ensure the authoring supervisor met all the requirements of 13.4.10.;~~
 - ~~6.4.10.2.2. — Review after action report findings using a preponderance of the evidence standard;~~
 - ~~6.4.10.2.3. — Review after action reports to ensure completeness and order additional investigation, when necessary;~~
 - ~~6.4.10.2.4. — Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or less force options;~~
 - ~~6.4.10.2.5. — Modify findings as appropriate and document modifications;~~
 - ~~6.4.10.2.6. — Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings and counsel the investigator;~~
 - ~~6.4.10.2.7. — Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed;~~
 - ~~6.4.10.2.8. — Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that the authoring supervisor discusses poor tactical decisions with the member and that the discussion is documented in EIS;~~
 - ~~6.4.10.2.9. — Suspend an investigation immediately and notify the branch Assistant Chief, the on-call PSD Lieutenant and the Detectives Division whenever the investigation supervisor, shift commander or Division commander finds evidence of apparent criminal conduct by a member; and~~
 - ~~6.4.10.2.10. — Report a matter to the on-call PSD Lieutenant for review and investigation whenever an investigating supervisor, shift commander or precinct commander finds evidence of significant misconduct by a member or employee.~~
- ~~6.4.10.3. — The use of force After Action report shall be completed through the RU within twenty-one days of the event.~~
- ~~6.5. — If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.~~

- ~~6.6.— Supervisors shall ensure that EIS tracks all comments, findings, and corrections related to the After Action Reports. Members shall refer to Directive 345.00, Employee Information System (EIS), for additional guidelines.~~
- ~~6.7.— All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of After Action reports completed by other supervisors under their command. Corrective or disciplinary action may include training, demotion, and/or removal from a supervisory position, based on repeated deficient after action reviews at any level of command.~~
- ~~6.8.— When, after investigation, a use of force is found to violate policy, the Bureau shall ensure that investigative findings regarding member misconduct are adequately addressed and that appropriate corrective action is taken fairly and expeditiously to resolve the issue.~~
- ~~6.9.— Where the use of force indicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the Inspector and the Chief, who shall ensure that the Bureau timely conducts necessary training and/or resolves the policy, tactical or equipment concern.~~
- ~~6.10.— The Chief, or designee, and the PSD have the discretion to reassign a use of force investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the after action chain of command as described.~~

~~7.1.10.1. The Inspector's Office shall routinely audit force-related After Actions and the associated reports. The Chief, or a designee, shall refer to the Inspector's audits to identify trends related to deficient reporting and investigations or problematic use of force patterns. The Chief, or a designee, shall take appropriate corrective action throughout the chain of command when use of force reports, force investigations conducted by supervisors, force-related After Action reports and Command reviews are not completed in accordance with Bureau policy and practices Directive 0630.50, Emergency Medical Aid.~~

~~6.11.— The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney's Office in a timely fashion.~~

8.11. Additional Supervisor Force Reporting Responsibilities. Requirements.

~~6.11.1.— An on-duty supervisor shall respond to the scene of all negligent or unintentional discharges of a firearm and notify the Detective Division, which will assume investigative responsibility, except at Bureau authorized training events, where no injury occurs. At training events, as long as no injury occurs, the Training Division shall have responsibility for investigating and reporting the negligent discharge.~~

~~6.11.2. — An on-duty supervisor shall investigate all negligent or unintentional discharges of less lethal weapons and document the incident in an after action report.~~

~~6.11.2.1. — Supervisors shall investigate negligent or unintentional discharges of less lethal weapons that strike another person in the same manner as a use of force.~~

11.1. Members shall refer to Directive 0910.00, Use of Force Reporting, Review, and Investigation, for all force reporting requirements.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, March 29, 2022 9:26:30 AM
Last Modified: Tuesday, March 29, 2022 9:26:38 AM
Time Spent: 00:00:07

Page 1

Q1

Please provide feedback for this directive

test

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, April 01, 2022 10:28:22 AM
Last Modified: Friday, April 01, 2022 11:23:57 AM
Time Spent: 00:55:35

Page 1

Q1

Please provide feedback for this directive

7 under the Policy section: I am unclear if the "where possible" applies to avoiding or minimizing force against individuals in actual or perceived crisis or if it applies to directing them to appropriate services or both.

Procedure 1. Sub 1.1. : Is this saying that "Proactive De-Escalation: will prevent the need to use force?" I am unsure if employing de-escalation could ever be sure to "prevent" the use of force. It certainly could reduce the likelihood or amount of force necessary.

1.1.2.1.1- I am unclear how merely "recognizing" when a person is in mental health crisis or experiencing a condition that alters their perception or decision making:" is de-escalation. Also 850.20 does not ask officers to recognize when a person IS in a crisis, it asked officers to recognize "sign's and symptoms" that may indicate they are in mental health crisis. These should be reconciled.

2.1.2.

When discussing the factors to consider. An individuals threat to themselves does not seem to be taken into account. 2.2.2 mentions threat to self in relation to "about to commit suicide or inflict serious physical self-injury" but if we are talking about a police officer custody hold or directors custody hold there could be a time where the individual is merely failing to care for themselves and meets hold criteria. Force may need to be used here to move the person to a gurney etc. Or if an officer prevents in imminent suicide attempt then force still could need to be used to get that person to the hospital absent the immediate threat of death or serious physical injury. Maybe the language here could be reconciled with ORS 426.228. "A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness"

I do not see "immediate" or "Immediate" threat. Especially since the state law uses "imminent" it seems as if it should be made very clear what immediate means and how it is different or similar to imminent. It seems like this is a pretty important word to have a definite meaning for.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, April 07, 2022 3:19:21 PM
Last Modified: Thursday, April 07, 2022 3:21:34 PM
Time Spent: 00:02:13

Page 1

Q1

Please provide feedback for this directive

Please make sure the definitions used in this policy are consistent with those across other force-related policies.

For the CEW definition, I believe a better definition of a drive-stun (to include the physical contact between the person and the device) maybe helpful.

Please ensure the procedural justice definition is consistent with the definition ultimately developed for the procedural justice policy.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Jackson Oldham**

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, April 13, 2022 2:05:23 PM
Last Modified: Wednesday, April 13, 2022 2:08:28 PM
Time Spent: 00:03:04

Page 1

Q1

Please provide feedback for this directive

There is a debate about whether this policy governs the conduct of off-duty PPB members NOT acting under the auspices and authority of a police officer. Are PPB members bound by this policy off-duty when not representing themselves as police officers? If not, the policy should specifically articulate that with language, such as, "This policy does not govern conduct of off-duty members who are not acting under the authority of a police officer or the Portland Police Bureau."

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, April 14, 2022 4:24:02 PM
Last Modified: Thursday, April 14, 2022 4:36:13 PM
Time Spent: 00:12:10

Page 1

Q1

Please provide feedback for this directive

Crowd management definition: the word Affray is redundant and unnecessary as most people do not know what it means. the next word in the definition is fight, so Affray which means public fight is covered.

Policy

items

4. Over the course of their career seems subjective and does not seem to provide a consistent standard if one officers does not have the same expectations as another.

Procedure:

2.1.3 Proportional force to the resistance encountered leans towards a robotic evaluation to force and almost reverts to a continuum that we have gotten away from.

2.2.1.1 the policy states officers must consider all of the listed line items/conditions.

first off, it is sometimes difficult to consider all of these things continually during a force event, secondly the policy does not state how what the officer is to do once considering this long list of things

2.3.3 when force is used they should be supported by at least one member capable of providing immediate cover, if feasible. This is always feasible if two person cars are allowed. The use of two person cars greatly reduces the risk of attack and resistance by suspect.

9.3.3.2 This is redundant as it is already covered in 9.1.1. the officer will just be in a car or shooting at a car,

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, April 20, 2022 4:48:40 PM
Last Modified: Wednesday, April 20, 2022 4:49:08 PM
Time Spent: 00:00:28

Page 1

Q1

Please provide feedback for this directive

COMMENTS ON FORCE, MEDICAL AND PROCEDURAL JUSTICE DIRECTIVES, APRIL 2022

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in mid March which focus on force, medical aid and procedural justice < <http://www.portlandoregon.gov/police/59757> >. The Force policy (1010.00) was split up to once again remove "Less Lethal" Weapons (now 1015.00, was 1050.00), after being integrated just five years ago in 2017. Force reporting now has its own policy (910.00). Parts of the Force policy about medical aid were moved into the specific Directive on that topic (630.50). We made comments on the Force policy in January 2021. The procedural justice policy is new.

We note up front that, although we only found it in once place, the Bureau has finally heeded our advice to distinguish between de-escalation prior to using force and lowering the amount of force being used on a person. The latter is now referred to as "reactive de-escalation." However this distinction has not been added to the Definitions section of Directive 1010.00.

We also noticed there are fewer references to weapons as "tools" in these directives, with the exception of the definition of "Less Lethal Weapon" in three policies and one other use in 1015.00. As we have noted before "these items are all designed to kill, harm, wound, or physically coerce people to follow police orders, not items used to open paint cans or build shelters for houseless people."

Unfortunately, the major revisions to 1010.00 almost make the redline version meaningless for purposes of comparison. Entire sections are crossed out but reappear in other places in that Directive, and the parts that were moved to new Directives show no indication where changes were made since those policies are being treated as "new." That said, after laborious line-by-line comparisons, PCW is re-stating many of its previous comments and adding new ones based on significant changes being proposed.

As usual, we ask the Bureau to give different labels to all of the major sections of the Directives, such as the Definitions, Policy and Procedure sections. Our comments refer to the Procedure section unless otherwise noted.

DIRECTIVE 1010.00 USE OF FORCE (previous comments January 2021)

Defining De-Escalation: As noted above, PCW appreciates that the section on lowering force used on a person once that threshold has been crossed (1.2) is labeled "Reactive De-Escalation." We hope this means officers do not continue to describe moving from using a Taser to using pepper spray, for instance, as "de-escalation." We urge the Bureau to add a definition of "Reactive De-Escalation" to the Definitions section, either by adding it to the de-escalation explanation (which refers to an "attempt to prevent or reduce the amount of force...") or making a new item. All that said, Section 1.1.2.1.5 still implies that making threats ("warnings") is a form of de-escalation, which it is not. It is also a little troubling that the Directive implies officers can skip past de-escalation and go right to violence, with the new phrase "de-escalation does not always require members to delay reasonable action" (1.3).

Match the DOJ, Discourage Force: In previous comments on this Directive, we noted that the phrase asking officers to "develop... the skills... to regularly resolve confrontations while minimizing the need to use force" (Policy Section 5), does not match the requirements of the Settlement Agreement, which calls for language saying "without resorting to force or [using] the least amount of force" (paragraphs 66 a&b). We continue to urge the Bureau to change the phrase, to match the Department of Justice's Agreement. We are still not sure how the current version passed muster with the DOJ. Similar language is in Policy Section 3 which rightly advises police to realize their own actions could escalate a situation, but then implies that "may influence the necessity for force."

No Need for Violence: We also continue to believe that the use of the term "need" to describe officers' decision to use force in Policy Section 5 continues to allow them to avoid responsibility for that choice. The current phrase would work as well if it said "...while minimizing the use of force." The word "need" is being proposed to replace the phrase that an officer's duty "may require" the use of

1010.00 Directive Feedback (2UR)

force in Policy Section 2; again, this does not reflect that it is a decision.

Explain Disengagement: We noted before that what is now Section 1.1.3 helps clarify the difference between disengagement and de-escalation, but requires that the benefits of disengagement "clearly" outweigh the risks, a subjective criterion. We again recommend the wording "it is more likely than not that disengagement provides more benefits than risks," which reflects language officers have to use when determining if there is reasonable suspicion to stop a person for criminal activity.

Important Additions: PCW acknowledges that the Bureau has added the word "proportional" to the list of words describing what force can be used (Section 2.1.3). Also, the modifier "out-of-policy" has been added to the duty to intervene clause, so officers aren't limited to only stopping unlawful police actions (3.1).

Clarify "Boxing In": The Definition of "boxing in" requires an officer's car to make contact with the suspect's vehicle to meet this tactic's definition. It seems officers could also park close to a vehicle without making contact, and that option should be offered to officers. Since there are currently two types of box-ins (dynamic and static), maybe a third one can be added.

Language Choice: This Directive allows the use of Less Lethal Weapons (6.3) or other force (2.2.2) against people who are imminently expected to take their own lives. The term used in both places is "commit suicide," which implies that such an action is criminal. The Bureau, especially in a state that pioneered death with dignity, should modify its language.

In our comments on this Directive in 2014, 2015, 2017, 2018 and 2021 we asked the Bureau to make these changes, which led to little or no modification. Thus, many of these comments are repeats of our old ideas.

Force Definition: The Bureau should re-insert the words "physical or mechanical intervention" to the Definition of Use of Force which were in the 2014 version of the Directive, regarding force used against physical resistance during "control holds and un-resisted handcuffing." The current version says "control holds and handcuffing without resistance do not constitute force." We still believe the Directive should be clear that just as any unwanted touching of an officer by a community member is considered assault on an officer, any unsolicited touching of a civilian by a police officer is a use of force. Unwanted touching is known as the crime of harassment.

Cross Reference Performance: The Bureau should reinstate the Sections on analysis of force confrontations to this Directive, rather than leaving them in Directive 315.30 Satisfactory Performance. There is no substantive reference to 315.30 in the Force policy, meaning the context of the other Directive is lost when reading 1010.00.

Limit Officer Discretion: There is too much leeway given to officers to precipitate force using actions which are not Bureau-approved. In two areas, the Directive says officers can do so with "substantial justification." This exception appears in Section 2.3.1 (Member Responsibilities) and 9.3.3.4.2 (about entering a car that is readily able to be driven). The Directive should list specific examples of acceptable deviations.

Step Forward on Warnings: PCW appreciates that the Bureau inserted language regarding warnings that a person may have a language barrier or hearing problems (Section 5.1.1). However we also suggested that mental health crisis and intoxication impairment be added as possible reasons a person does not respond to warnings, similar to reasons they may not comply given in Section 2.2.1.2

More Warnings Better than None: Section 5.1.3.1 continues to exclude Vehicle Intervention and Category IV (low-level) force from the requirement for warnings. We still believe some of those techniques, including the Category IV pointing of a firearm, should require warnings.

Other Considerations When Using Force: The current Directive doesn't mention the suspect's impact on the public as a consideration under the Graham standard of "reasonableness," only Severity of the crime (2.1.2.2), Resistance/ evading (2.1.2.3) and Threat (2.1.2.1). Time and available resources, which are crucial to de-escalation, are also not mentioned. Instead the Directive says "a reasonableness inquiry is not limited to these [three] factors" (2.1.4).

Exceptions for Choking the Life Out of a Human Being: Choke holds are now prohibited by the Directive (not just the "carotid artery

1010.00 Directive Feedback (2UR)

hold")... but they are still allowed if the officer would otherwise be allowed to use deadly force (Section 9.3.2). Think of the broad implication of delegating the public's desire for safety to someone who chokes another person to death, especially in a post-George Floyd world.

Limiting Use of "Hard Objects": We still appreciate that the Definition of deadly force includes a "strike to the head, neck or throat with a hard object" but remain concerned there is an implied permission to use such tactics because there are no prohibitions in the policy. As noted previously, the Compliance Officer called out the Bureau (and IPR) for not investigating an officer at a protest who deliberately hit someone in the head with a baton as deadly force.

Upping the Violence Against Animals: We previously expressed concern that impact munitions were approved for use against "vicious or aggressive animals." The Directive now authorizes the use of deadly force (firearms) against animals fitting this description, when they interfere with safety or "the execution of a lawful objective" (Section 9.3.1.3). We described this threshold as "this animal is bugging me while I'm trying to do my job," and the Bureau is now allowing even more force to be used rather than limiting animal abuse by officers.

Crowd Control Prohibitions: We appreciate that Section 7 expands on previous restrictions of weapons not to be used in crowds (Tasers, canines) and adds handheld chemical incapacitants and impact projectiles, though the latter can be used "if deadly force is authorized." Against a crowd, really? Similarly, the use of tear gas is banned except for a very specific set of circumstances, likely pulled from the Oregon State law on use of chemical weapons.

Shooting at Vehicles: Our previous comments noted that deadly force is authorized against a moving vehicle if there is a "risk of death or serious injury," which is still in Section 9.3.3. An earlier version said that the risk had to come from something other than the vehicle to enable an officer to use deadly force. The new version now says that if the vehicle's driver is trying to hit pedestrians or a group of people, officers can fire on it. This brings to mind quite number of incidents in Portland and the tragedy in Charlottesville where vehicles threatened and killed peaceful protestors. However, it would seem that the caution about a vehicle becoming an "unguided vehicle" being a "threat to anyone in its path" should be moved to the front of this section rather than being down at 9.3.3.3.

CONCLUSION

Portland Copwatch appreciates that all of these Directives are being given a full 30 days for review, but still would like to see review periods extended to allow for groups who only meet once a month to give input during the Bureau's time frame. The Bureau would also benefit from holding public meetings to discuss the intent behind proposed changes and to take questions about community ideas for improvements to policies. We wrote previously: "Frequently when there are references to comments made but not acted upon, the answers are unsatisfactory and dismissive; we should be able to engage in a dialogue to help move the Bureau more toward one that is free from brutality, corruption and racism."

--dan handelman and other members of
Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, April 21, 2022 12:13:59 AM
Last Modified: Thursday, April 21, 2022 12:30:47 AM
Time Spent: 00:16:47

Page 1

Q1

Please provide feedback for this directive

De-escalation is defined as a deliberate attempt to prevent or reduce the amount of force necessary to safely and effectively resolve confrontation.

I have been involved in police work for nearly two decades. I have always found myself attempting to use numerous tactics and strategies to resolve confrontation without having to use force. One tactic that I have always considered, frequently requested, and have observed work successfully in coaxing combative suspects into compliant persons, is the insertion of a police K9.

I have been on numerous calls where we are in standoffs with combative suspects, and the only way to take said person into custody is by means of some force application. In these moments, I have requested the use of a K9, and asked the K9 officer to present their dog, provide a bark, specifically to change the behavior and avoid having to use force, without any intention to actually use the dog as force. Quite simply, I will often say to the K9 handler, " Can you bring your dog out, ask him to bark to get the subject to comply, otherwise this will probably be a force event." Again, I have seen by simply presenting a barking dog, a warning or admonishment often results in the subject expressing their unwillingness to combat the dog and simply give up, thus reaching the desired goal of avoiding force. This happens on a daily basis, and will continue to be one of the most prominent de-escalation tools. It is fact that dogs have a psychological effect on individuals, leading them to comply under said circumstances.

So again, while referring to the definition, the way that K9's have been used to avoid having to use force, I found it interesting that under current policy and from the DOJ that K9s are not recognized as a de-escalation technique.

My request, is that it be considered that the insertion of the K9, and in the manner oh which the K9 is used count and/or meet the definition of a de-escalation technique.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Senior**

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, January 15, 2021 9:12:11 AM
Last Modified: Friday, January 15, 2021 9:12:21 AM
Time Spent: 00:00:10

Page 1

Q1

Please provide feedback for this directive

1010 test

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, January 15, 2021 9:47:08 AM
Last Modified: Friday, January 15, 2021 9:48:15 AM
Time Spent: 00:01:06

Page 1

Q1

Please provide feedback for this directive

Quit your job, EMTs and firefighters save lives, you take them.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Ted Wheeler**

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, January 15, 2021 7:40:25 PM
Last Modified: Friday, January 15, 2021 8:00:28 PM
Time Spent: 00:20:02

Page 1

Q1

Please provide feedback for this directive

My feedback is this: I feel sorry for the cops that have to keep all these hair splitting rules and minute detail in the forefront of their brains in the midst of trying to apprehend a subject or control a violent crowd, under high stress, and unpredictable circumstances. They aren't working on a factory assembly line here. Yet they are expected to be machine like Robocops. And the use of their inherent reflexes and decision making is being restricted and dampened in favor of them somehow memorizing, recalling, and following to a tee reams of text in a code book. With presumably harsh punishment and public outcry if they don't get it 100% correct. This is a slippery slope. And it's not realistic, or fair to expect of a mere human - especially a human that is getting paid to face dangers on behalf of, and for the safety and benefit of the rest of us.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Jeff Dood**

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, January 19, 2021 8:54:06 AM
Last Modified: Tuesday, January 19, 2021 9:08:58 AM
Time Spent: 00:14:52

Page 1

Q1

Please provide feedback for this directive

Section 5.4: This section needs to be re-written to account for the fact that it is not realistic to "re-evaluate" between rapid uses of force, particularly the use of semi-automatic firearms or semi-automatic less lethal impact munitions. Judge Hernandez recently found the Bureau in contempt regarding the use of less lethal impact munitions and as part of that ruling he found it was not realistic that officers are re-evaluating the use of force between trigger pulls. I think the average lay person would also find this implausible. The reality is that the decision to use force is made, and force is continuously used until circumstances change and the threat is mitigated. The directive should be re-worded to reflect that reality, and training should be conducted to stress a "re-evaluation" of the force being used if it is not effective in mitigating the threat (similar to the Taser) and to assist officers in articulating that decision making process.

Section 6: Less lethal force can cause death or serious physical injury only when used improperly or when something unexpected occurs (like the target moves and the force impacts an unintended area. The way this section is written, it creates unnecessary risk and liability for the City.

Section 6.2: The way this section is written it creates unnecessary risk when less lethal tools are used on crowds where the presence of minors, medically fragile, etc are present.

6.4.2.1.3: Define "higher level of force". The City was recently held in contempt for the use of less lethal impact munitions, in part because of the confusion regarding what this meant. What is "higher" than the use of impact munitions?

6.4.2.2.2: This section should be re-written to clarify. There is confusion regarding what "for the purposes of crowd management and crowd control" means. In essence, we should only be using these tools for crowd dispersal unless there are exigent circumstances.

6.4.6: Re-write this section to incorporate ORS regarding Tear Gas. Eliminate references to "RCA's" now that ORS exists, including definition.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, January 27, 2021 2:40:02 PM
Last Modified: Wednesday, January 27, 2021 2:44:17 PM
Time Spent: 00:04:15

Page 1

Q1

Please provide feedback for this directive

6.4.3.3.1. in regards to medical treatment for our OC spray. Currently recommends using water to wash out eyes. Our OC is oil based so water will spread the OC and make it worse. Time and air diminish the effects.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Ryan Albertson**

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, January 29, 2021 11:52:51 AM
Last Modified: Friday, January 29, 2021 11:53:07 AM
Time Spent: 00:00:16

Page 1

Q1

Please provide feedback for this directive

COMMENTS ON FORCE AND WEAPONS DIRECTIVES, JANUARY 2021

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are our comments on the Directives posted for review in mid January which focus on force and weapons . The Force policy (1010.00) and Deadly Force investigations policy (1010.10) were last posted for review in December, 2018 after the Bureau failed to post 1010.10 in March that year. We are also commenting on the two weapons Directives which were also last posted in December 2018, and for which we made comments at that time, many of which are repeated below.

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We still urge the Bureau to give different labels to all of the major sections of the Directives, such as the Definitions, Policy and Procedure sections (our comments here refer to the Procedure section unless otherwise noted) so there are not multiple sections numbered "1."

DIRECTIVE 1010.00-USE OF FORCE

Minimizing Force vs. Not Resorting to Force: In our 2018 comments on this Directive, we noted that the phrase asking officers to "develop... the skills... to regularly resolve confrontations while minimizing the need to use force" (Policy Section 4), does not match the requirements of the Settlement Agreement, which calls for language saying "without resorting to force or [using] the least amount of force" (paragraphs 66 a&b). At the very least, we suggested, the phrase should say "minimizing the use of force" without the unnecessarily loaded word "need." We are not sure how the current version passed muster with the DOJ.

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Remembering the Bureau's Past, Reflecting on "I Can't Breathe": After Officer Larry Wingfield used a carotid choke hold in August 2018, we asked the Bureau to address our concern that the hold is mentioned in the definition of deadly force and "serious use of force," as well as Section 10.2.1.4 with no restriction. The Bureau banned the use of that hold after the death of Lloyd "Tony"

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Stevenson in 1985.

Limiting Use of "Hard Objects": We still appreciate that the Definition of deadly force includes a "strike to the head, neck or throat with a hard object" (and that is investigated as deadly force in 10.2.1.5), but remain concerned there is an implied permission to use such tactics because there are no prohibitions in the policy. It must be noted here that the Compliance Officer called out the Bureau (and IPR) for not investigating an officer at a protest who deliberately hit someone in the head with a baton (as is clear in the video of the incident) as deadly force. As previously noted by PCW, Section 6.4.1.2.1 restricts the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized."

--We are concerned that the current Directive also still seems to authorize use of anything other than Batons as an impact weapon if an officer "reasonably believes that other authorized physical force responses are not available" (Section 6.4.1.1.1.1).

Help Portland Be a Humane Society: Section 6.4.2.1.6 allows Impact Munitions to be used on "vicious or aggressive animals" if they interfere with safety or "the completion of a police mission." While such munitions are designed to be "less lethal" on humans, they are more likely to cause deadly injuries to smaller animals, so the threshold should be higher than "this animal is bugging me while I'm trying to do my job."

Key Provision for Recent Shooting: The Section restricting firing at moving vehicles (8.5.2) says deadly force is authorized if there is an "immediate risk of death or serious physical injury." The Bureau has not reinstated the old provision that such a threat has to come from something other than the vehicle. Regardless, the officer who shot at a car after it rammed into both her and her patrol car in December 2020 may have been in violation of this Section, since, according to media reports, the immediate risk was over at the time she fired.

___ Weapons Use in the Force Directive

Less Lethal is Not "Non Lethal": The Directive includes policies on Less Lethal Weapons, Batons, Conducted Energy Weapons (Tasers), Aerosol Restraints (Pepper Spray), Impact Munitions, Riot Control Agents, and Hobbles under the general category of Less Lethal Weapons (Section 6). The Directive cautions that such weapons "can still result in death or serious injury" (Section 6.1). However, we again urge the Bureau to carry forward the warning from the definition of "Impact Munition" in Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal."

Clearly Define Subject Resistance: Section 6.1 suggests "less lethals" can be used on "threatening or actively resistive" subjects. The term "actively resistive" should be more narrowly defined because (a) sometimes people's natural reactions to being touched, grabbed or roughed up is not "active resistance," and (b) in order to justify the use of force to witnesses, officers often yell out "stop resisting" when someone is not doing anything.

Crowd Munitions: After the long summer of protests against police violence (which were met with police violence), it seems the Bureau should both hold officers to existing policies and be more restrictive and specific. Section 6.4.2 says a 40 MM launcher should not be aimed at a person's head or chest or other vulnerable areas or at close range, actions that we know happened in August 2018 and probably many times in 2020. There should also be more specific restrictions on the various munitions that can be fired from the launchers including "Aerial Distraction Devices," pepper balls, foam batons and whatever other monstrosities the industry is making available these days. There should also be serious consequences for their misuse.

Tasers and the Law: Our greatest concern about the Taser provisions is they still do not seem to be in line with the Ninth Circuit Court of Appeals, whose ruling said Tasers are a serious enough use of force that they can only be used when there is an "active threat." (The ACLU also referenced the Bryan v. MacPherson case in their comments.) While the Directive prohibits Taser use against a person who is merely running away, it allows use with a "reasonable belief that the subject presents a risk of death or serious injury" (Section 6.4.4.1.4).

Taser Threats: We remain concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending use of force (6.4.4.1.5), especially since warning shots from a firearm are prohibited (Section 8.3.1). The Directive also still allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (6.4.4.2.2) which is not a form of de-escalation. Section 6.4.4.1.5 also allows using the Taser's laser sight light as a

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COMBINATION (6.4.4.2.2), WHICH IS NOT A FORM OF DE-ESCALATION. SECTION 6.4.4.1.3 ALSO ALLOWS USING THE TASER'S LASER LIGHT AS A MEANS OF WARNING, WHICH IS SIMILARLY UNREASONABLE. WE CONTINUE TO REMIND THE BUREAU THAT "LASER LIGHT ONLY" WAS TRACKED UNTIL 2008 AND THE AUDITOR AND THE COMMUNITY/POLICE RELATIONS COMMITTEE BOTH SUGGESTED THAT PRACTICE SHOULD BE REINSTATED.

Loopholes for Weapons Use: Previously, it was prohibited to use Tasers against persons engaged in passive resistance. Section 4.1 prohibits force to overcome such resistance, but only if the resistance "does not impede a lawful objective." We continue to think this is a license for officers to use violence against non-violent protestors (or criminal suspects). Section 6.4.6.2.1 specifically says riot control agents and "area impact weapons" can't be used in cases of passive resistance that, again, "does not impede a lawful objective." These loopholes need to be more narrowly defined or removed.

--Also, the list of persons against whom less-lethal weapons should not be used (Section 6.2) still leaves off the old prohibition on using them on people over the age of 60. Section 10.3.1.12 requires any use against people in restricted categories (people under 15, medically fragile or pregnant) to be investigated as a Category II (high level) Use of Force, regardless of which weapon is used.

--We stand by this comment: "While it is commendable (and in line with the Settlement Agreement) that officers should not use Tasers against persons who seem to be in mental health crisis (Section 6.4.4.2.1), there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use."

Bogus Science: As noted repeatedly in the past, we do not find the argument persuasive that the DOJ told the Bureau the use of the phrase "excited delirium" (Section 9.8, requiring EMS to be called), is a "term of art" so can remain in the policy. "Excited delirium" is not defined in the Directive, is not a medically accepted term, and was objected to by others in the community other than Portland Copwatch. Taser International (now Axon) uses this term to explain why hundreds of people have died since 2002 after being struck by their allegedly safe electroshock weapons.

Explicit Reporting Requirements Needed: Over five years after being cut, the Bureau has not reinserted sections detailing what should go into a force report, requiring a supervisor to check on a wounded civilian who is hospitalized, photographing injuries, and explaining why a Taser was used. Talking to the person who is subjected to force is not a mandatory part of the Supervisor's on-scene force investigation (Section 12), except that they be given medical attention (12.2). Section 13.4.6 says Supervisors should "attempt" to interview the subject, but there is no caution against asking questions about potential underlying criminal activity. PCW continues to call for the "Independent" Police Review (IPR) or other such non-police agency to respond to scenes of use of force to avoid such legal complications.

Pepper Spray is Dangerous: We repeat that Pepper Spray has been known to cause or contribute to the deaths of numerous people (including Dickie Dow in Portland in 1998), so we are glad it is considered on the same level as Tasers (1-2 cycles) and impact weapons (Section 10.4.1.2), even though the threshold for use (physical resistance) is lower. It's not clear why reporting on the circumstances leading to the discharge of Less Lethal Weapons/Munitions (11.2.1.1) and Tasers (11.2.3.1.1) are required, but there are no specific reporting requirements for Pepper Spray.

Chemical Weapons: We continue to have concerns that Incident Commanders in crowd situations can authorize the use of chemical agents to disperse a crowd (6.4.6.1.1) since persons not engaged in "physical resistance" or "active aggression" are being subjected to such gassing (something which occurred many times in 2020). The admonition "to minimize exposure to non-targeted persons" (Section 6.4.3.2.2) is meaningless when officers use pepper spray or other chemicals so indiscriminately. Also, a previous restriction to only use the spray from four feet away or more has still not been reinserted.

____ Reporting Requirements in Force Directive

More Reporting Needed: We are still concerned that this Directive (and 905.00) only asks for limited after action reporting on "crowd events," which used to be mandatory. Now reporting only has to happen after "launched impact munitions with contact" (10.3.1.6), use of "riot control agents and/or area impact munitions"(10.3.1.11), "impact weapon with injury requiring hospital treatment" (10.3.1.7), and various uses of force which are sometimes used but not necessarily particular to crowd control. Reports that only go up to the Responsibility Unit Manager (Lieutenant, Captain or Commander), not the Chief's office, are to be written for "use of aerosol restraints" (10.4.1.2), "use of impact weapon, without injury" (10.4.1.4), "launched impact munitions, without injury" (10.4.1.7) and other various uses of force.

--We appreciate that the requirement that Taser deployment has to be followed up with an After Action report regardless of "successful application or [officer] intent" was moved up to be Section 10.4.1.2 as we suggested.

Any Misconduct Should Be Investigated: In 2018 we suggested that the word "significant" be removed from Section 13.4.10.2.10 requiring Supervisors to report information to the Professional Standards Division (PSD) if there is evidence of "significant" misconduct, as any misconduct during a force incident should be investigated. That has still not been fixed.

Off Duty Cops: We're not sure when this was added but we appreciate that Section 11.1.4.1 requires officers to report force used in their capacity as law enforcement while off duty.

DIRECTIVE 1010.10 POST DEADLY FORCE PROCEDURES

Once again, most of these comments are repeats. This is the Directive which City Council ordered the Bureau to adopt in August 2017. We hope that the Bureau will feel confident to make policy changes that do not disturb the intent of Council-- which was mostly focused on ensuring officers in deadly force incidents are interviewed within 48 hours without interfering with the criminal investigation.

Deadly Force Without Death/Reporting Requirements: The Directive notes that the District Attorney is in charge of investigating all deaths in the County (Section 1, ORS 164.095) but implies all officer involved shootings will be handled in the same way. A previous draft separated out cases in which the suspect was not killed, which would have required more reporting to be done by involved officers. The involved officer is not required to fill out a Force Report at all, while (a) Homicide Detectives fill out a "General Offense Report" (2.2.4.1.1), (b) the Professional Standards Division (PSD)'s written report substitutes for the officer's Force Report (3.2), and (c) no After Action Report is required because PSD's review supposedly serves the same function (3.3). It seems irresponsible to never require an officer engaged in the most serious use of force possible to write a report about what happened.

Misconduct Investigations Labeled "Administrative Reviews": We continue to object to PSD's investigation being referred to as an "Administrative Review" (Policy Section 3, Sections 1, 3.1, 3.3, 6.1, 6.3, 6.4, 6.5, 7.1.1, 8.5, and 8.6). This, we said, is an example of semantic gymnastics designed to prohibit a person who survives being shot by the police from filing a complaint or an appeal about the officer's behavior or the Bureau's findings (which are almost inevitably that the officers acted within policy). Lesley Paul Stewart, who was shot in the head by the PPB in 2007 but lived, tried to file a complaint but was unable to, as was Fred Bryant, the father of Keaton Otis, in 2012. A person who is racially profiled, called a name, hit with a baton, zapped with a Taser or any other less serious misconduct can file complaints and appeals. This amounts to unequal protection under the law and must be changed.

Define "Walk Through": The Directive refers repeatedly to a voluntary (for involved officers) and mandatory (for witness officers) "walk through" but does not define what that means (Sections 2.1.1.4, 2.1.7.1.1 & 2, and 2.1.8). So far as we know, and according to the Compliance Officer's reports, no officer has yet undergone the voluntary walk-through of a scene since that practice was instituted in conjunction with the DOJ Agreement years ago.

Civilian Agency Should Head to Any PPB Deadly Force Incident: Section 4.4 on the duties of Professional Standards when an officer is involved in a deadly force incident outside City limits no longer includes the requirement to contact IPR (or its successor civilian review agency), but it should.

Timely Communication by Chief: The Bureau has still not reinstated the timeline in Section 9.5 which required the Chief to hold a briefing the day after an incident rather than on the "next business day" as it now reads. If a shooting happens on a Friday, the community should not have to wait until a Monday or Tuesday to find out the basic facts. PCW hopes that with a new District Attorney in office, the previous DA's objections to the mandatory compelled interview within 48 hours will dissipate, and the PPB will not feel pressured to withhold information from the public. The PPB and the City should give out as much information as possible, especially to allay concerns about how rumors spread after officer involved shootings. Putting out information faster will stem that tide.

--A side note on this issue: people who have been wounded by the police and brought to the hospital have been identified in shifting timelines. Chase Peebles was identified while in the hospital, but six days after he was shot (October/November 2017). Jason Hansen was not identified until nearly three weeks after he was shot, but while he was in the hospital (October/November 2018). Ryan Beisley

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was not identified 24 hours after he was shot supposedly for investigative reasons, but his name was released when he got out of the hospital two days after the incident (December 2018).

Releasing Information on Officers: We previously expressed our thanks for Section 9.1 language which now restricts the release of a victim's criminal information without it being requested. But we noted the Bureau rarely talks about the history of officers involved in shootings, especially when they have been involved in previous misconduct and/or deadly force situations. The Directive only requires the release of the officer's name and length of service (Sections 9.8 and 9.7.4). Section 9.8 says the officer's names should be released within 24 hours, but still includes an exception added in 2017 for a "credible threat." We pointed out in previous comments that this language echoes a poorly considered piece of legislation that was defeated in the 2016 Oregon legislature and should be removed from the Directive. If the Bureau is committed to transparency, officer names must be released.

Contacting Oregon and US Departments of Justice: In our previous comments, we called for a deleted section requiring the Bureau to contact the Department of Justice to be reinserted. We believe this should include both the US Department of Justice-- the Civil Rights division and whoever collects data on officer involved shootings-- and the State of Oregon DOJ, which began collecting and posting narratives about deadly force incidents in late 2016 (after Portland Copwatch repeatedly called attention to the 2007 statute requiring such information be released).

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Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch

#7

COMPLETE

Collector: Web Link 1 (Web Link)
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Last Modified: Friday, January 29, 2021 11:53:37 AM
Time Spent: 00:00:23

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Please provide feedback for this directive

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Are Warnings Heard?: The call for officers to issue warnings before using force (Section 3) does not include concepts to ensure people understand the warnings. Both we and the Training Advisory Council suggested the Bureau address barriers such as mental health crisis and intoxicant impairment, as listed in Section 1.2 as reasons for lack of compliance, and we suggest cultural norms and deafness also be added in both places. Section 3.1.1.1 removes Vehicle Intervention and Category IV force from the requirement for warnings, but we believe some of those techniques, including the Category IV pointing of a firearm, should require warnings.

Apply More Graham Standard Tests: The current Directive doesn't mention the suspect's impact on the public as a consideration under the Graham standard of "reasonableness," only Severity of the crime (5.1.2), Resistance/evading (5.1.3) and Threat (5.1.1). Time and available resources, which are crucial to de-escalation, are not mentioned. Instead the Directive says "a reasonableness inquiry is not limited to these [three] factors" (5.2).

Remembering the Bureau's Past, Reflecting on "I Can't Breathe": After Officer Larry Wingfield used a carotid choke hold in August 2018, we asked the Bureau to address our concern that the hold is mentioned in the definition of deadly force and "serious use of force," as well as Section 10.2.1.4 with no restriction. The Bureau banned the use of that hold after the death of Lloyd "Tony"

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Stevenson in 1985.

Limiting Use of "Hard Objects": We still appreciate that the Definition of deadly force includes a "strike to the head, neck or throat with a hard object" (and that is investigated as deadly force in 10.2.1.5), but remain concerned there is an implied permission to use such tactics because there are no prohibitions in the policy. It must be noted here that the Compliance Officer called out the Bureau (and IPR) for not investigating an officer at a protest who deliberately hit someone in the head with a baton (as is clear in the video of the incident) as deadly force. As previously noted by PCW, Section 6.4.1.2.1 restricts the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized."

--We are concerned that the current Directive also still seems to authorize use of anything other than Batons as an impact weapon if an officer "reasonably believes that other authorized physical force responses are not available" (Section 6.4.1.1.1.1).

Help Portland Be a Humane Society: Section 6.4.2.1.6 allows Impact Munitions to be used on "vicious or aggressive animals" if they interfere with safety or "the completion of a police mission." While such munitions are designed to be "less lethal" on humans, they are more likely to cause deadly injuries to smaller animals, so the threshold should be higher than "this animal is bugging me while I'm trying to do my job."

Key Provision for Recent Shooting: The Section restricting firing at moving vehicles (8.5.2) says deadly force is authorized if there is an "immediate risk of death or serious physical injury." The Bureau has not reinstated the old provision that such a threat has to come from something other than the vehicle. Regardless, the officer who shot at a car after it rammed into both her and her patrol car in December 2020 may have been in violation of this Section, since, according to media reports, the immediate risk was over at the time she fired.

___ Weapons Use in the Force Directive

Less Lethal is Not "Non Lethal": The Directive includes policies on Less Lethal Weapons, Batons, Conducted Energy Weapons (Tasers), Aerosol Restraints (Pepper Spray), Impact Munitions, Riot Control Agents, and Hobbles under the general category of Less Lethal Weapons (Section 6). The Directive cautions that such weapons "can still result in death or serious injury" (Section 6.1). However, we again urge the Bureau to carry forward the warning from the definition of "Impact Munition" in Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal."

Clearly Define Subject Resistance: Section 6.1 suggests "less lethals" can be used on "threatening or actively resistive" subjects. The term "actively resistive" should be more narrowly defined because (a) sometimes people's natural reactions to being touched, grabbed or roughed up is not "active resistance," and (b) in order to justify the use of force to witnesses, officers often yell out "stop resisting" when someone is not doing anything.

Crowd Munitions: After the long summer of protests against police violence (which were met with police violence), it seems the Bureau should both hold officers to existing policies and be more restrictive and specific. Section 6.4.2 says a 40 MM launcher should not be aimed at a person's head or chest or other vulnerable areas or at close range, actions that we know happened in August 2018 and probably many times in 2020. There should also be more specific restrictions on the various munitions that can be fired from the launchers including "Aerial Distraction Devices," pepper balls, foam batons and whatever other monstrosities the industry is making available these days. There should also be serious consequences for their misuse.

Tasers and the Law: Our greatest concern about the Taser provisions is they still do not seem to be in line with the Ninth Circuit Court of Appeals, whose ruling said Tasers are a serious enough use of force that they can only be used when there is an "active threat." (The ACLU also referenced the Bryan v. MacPherson case in their comments.) While the Directive prohibits Taser use against a person who is merely running away, it allows use with a "reasonable belief that the subject presents a risk of death or serious injury" (Section 6.4.4.1.4).

Taser Threats: We remain concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending use of force (6.4.4.1.5), especially since warning shots from a firearm are prohibited (Section 8.3.1). The Directive also still allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (6.4.4.2.2) which is not a form of de-escalation. Section 6.4.4.1.5 also allows using the Taser's laser sight light as a

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COMBINATION (6.4.4.2.2), WHICH IS NOT A FORM OF DE-ESCALATION. SECTION 6.4.4.1.3 ALSO ALLOWS USING THE TASER'S LASER LIGHT AS A MEANS OF WARNING, WHICH IS SIMILARLY UNREASONABLE. WE CONTINUE TO REMIND THE BUREAU THAT "LASER LIGHT ONLY" WAS TRACKED UNTIL 2008 AND THE AUDITOR AND THE COMMUNITY/POLICE RELATIONS COMMITTEE BOTH SUGGESTED THAT PRACTICE SHOULD BE REINSTATED.

Loopholes for Weapons Use: Previously, it was prohibited to use Tasers against persons engaged in passive resistance. Section 4.1 prohibits force to overcome such resistance, but only if the resistance "does not impede a lawful objective." We continue to think this is a license for officers to use violence against non-violent protestors (or criminal suspects). Section 6.4.6.2.1 specifically says riot control agents and "area impact weapons" can't be used in cases of passive resistance that, again, "does not impede a lawful objective." These loopholes need to be more narrowly defined or removed.

--Also, the list of persons against whom less-lethal weapons should not be used (Section 6.2) still leaves off the old prohibition on using them on people over the age of 60. Section 10.3.1.12 requires any use against people in restricted categories (people under 15, medically fragile or pregnant) to be investigated as a Category II (high level) Use of Force, regardless of which weapon is used.

--We stand by this comment: "While it is commendable (and in line with the Settlement Agreement) that officers should not use Tasers against persons who seem to be in mental health crisis (Section 6.4.4.2.1), there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use."

Bogus Science: As noted repeatedly in the past, we do not find the argument persuasive that the DOJ told the Bureau the use of the phrase "excited delirium" (Section 9.8, requiring EMS to be called), is a "term of art" so can remain in the policy. "Excited delirium" is not defined in the Directive, is not a medically accepted term, and was objected to by others in the community other than Portland Copwatch. Taser International (now Axon) uses this term to explain why hundreds of people have died since 2002 after being struck by their allegedly safe electroshock weapons.

Explicit Reporting Requirements Needed: Over five years after being cut, the Bureau has not reinserted sections detailing what should go into a force report, requiring a supervisor to check on a wounded civilian who is hospitalized, photographing injuries, and explaining why a Taser was used. Talking to the person who is subjected to force is not a mandatory part of the Supervisor's on-scene force investigation (Section 12), except that they be given medical attention (12.2). Section 13.4.6 says Supervisors should "attempt" to interview the subject, but there is no caution against asking questions about potential underlying criminal activity. PCW continues to call for the "Independent" Police Review (IPR) or other such non-police agency to respond to scenes of use of force to avoid such legal complications.

Pepper Spray is Dangerous: We repeat that Pepper Spray has been known to cause or contribute to the deaths of numerous people (including Dickie Dow in Portland in 1998), so we are glad it is considered on the same level as Tasers (1-2 cycles) and impact weapons (Section 10.4.1.2), even though the threshold for use (physical resistance) is lower. It's not clear why reporting on the circumstances leading to the discharge of Less Lethal Weapons/Munitions (11.2.1.1) and Tasers (11.2.3.1.1) are required, but there are no specific reporting requirements for Pepper Spray.

Chemical Weapons: We continue to have concerns that Incident Commanders in crowd situations can authorize the use of chemical agents to disperse a crowd (6.4.6.1.1) since persons not engaged in "physical resistance" or "active aggression" are being subjected to such gassing (something which occurred many times in 2020). The admonition "to minimize exposure to non-targeted persons" (Section 6.4.3.2.2) is meaningless when officers use pepper spray or other chemicals so indiscriminately. Also, a previous restriction to only use the spray from four feet away or more has still not been reinserted.

____ Reporting Requirements in Force Directive

More Reporting Needed: We are still concerned that this Directive (and 905.00) only asks for limited after action reporting on "crowd events," which used to be mandatory. Now reporting only has to happen after "launched impact munitions with contact" (10.3.1.6), use of "riot control agents and/or area impact munitions"(10.3.1.11), "impact weapon with injury requiring hospital treatment" (10.3.1.7), and various uses of force which are sometimes used but not necessarily particular to crowd control. Reports that only go up to the Responsibility Unit Manager (Lieutenant, Captain or Commander), not the Chief's office, are to be written for "use of aerosol restraints" (10.4.1.2), "use of impact weapon, without injury" (10.4.1.4), "launched impact munitions, without injury" (10.4.1.7) and other various uses of force.

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--We appreciate that the requirement that Taser deployment has to be followed up with an After Action report regardless of "successful application or [officer] intent" was moved up to be Section 10.4.1.2 as we suggested.

Any Misconduct Should Be Investigated: In 2018 we suggested that the word "significant" be removed from Section 13.4.10.2.10 requiring Supervisors to report information to the Professional Standards Division (PSD) if there is evidence of "significant" misconduct, as any misconduct during a force incident should be investigated. That has still not been fixed.

Off Duty Cops: We're not sure when this was added but we appreciate that Section 11.1.4.1 requires officers to report force used in their capacity as law enforcement while off duty.

DIRECTIVE 1010.10 POST DEADLY FORCE PROCEDURES

Once again, most of these comments are repeats. This is the Directive which City Council ordered the Bureau to adopt in August 2017. We hope that the Bureau will feel confident to make policy changes that do not disturb the intent of Council-- which was mostly focused on ensuring officers in deadly force incidents are interviewed within 48 hours without interfering with the criminal investigation.

Deadly Force Without Death/Reporting Requirements: The Directive notes that the District Attorney is in charge of investigating all deaths in the County (Section 1, ORS 164.095) but implies all officer involved shootings will be handled in the same way. A previous draft separated out cases in which the suspect was not killed, which would have required more reporting to be done by involved officers. The involved officer is not required to fill out a Force Report at all, while (a) Homicide Detectives fill out a "General Offense Report" (2.2.4.1.1), (b) the Professional Standards Division (PSD)'s written report substitutes for the officer's Force Report (3.2), and (c) no After Action Report is required because PSD's review supposedly serves the same function (3.3). It seems irresponsible to never require an officer engaged in the most serious use of force possible to write a report about what happened.

Misconduct Investigations Labeled "Administrative Reviews": We continue to object to PSD's investigation being referred to as an "Administrative Review" (Policy Section 3, Sections 1, 3.1, 3.3, 6.1, 6.3, 6.4, 6.5, 7.1.1, 8.5, and 8.6). This, we said, is an example of semantic gymnastics designed to prohibit a person who survives being shot by the police from filing a complaint or an appeal about the officer's behavior or the Bureau's findings (which are almost inevitably that the officers acted within policy). Lesley Paul Stewart, who was shot in the head by the PPB in 2007 but lived, tried to file a complaint but was unable to, as was Fred Bryant, the father of Keaton Otis, in 2012. A person who is racially profiled, called a name, hit with a baton, zapped with a Taser or any other less serious misconduct can file complaints and appeals. This amounts to unequal protection under the law and must be changed.

Define "Walk Through": The Directive refers repeatedly to a voluntary (for involved officers) and mandatory (for witness officers) "walk through" but does not define what that means (Sections 2.1.1.4, 2.1.7.1.1 & 2, and 2.1.8). So far as we know, and according to the Compliance Officer's reports, no officer has yet undergone the voluntary walk-through of a scene since that practice was instituted in conjunction with the DOJ Agreement years ago.

Civilian Agency Should Head to Any PPB Deadly Force Incident: Section 4.4 on the duties of Professional Standards when an officer is involved in a deadly force incident outside City limits no longer includes the requirement to contact IPR (or its successor civilian review agency), but it should.

Timely Communication by Chief: The Bureau has still not reinstated the timeline in Section 9.5 which required the Chief to hold a briefing the day after an incident rather than on the "next business day" as it now reads. If a shooting happens on a Friday, the community should not have to wait until a Monday or Tuesday to find out the basic facts. PCW hopes that with a new District Attorney in office, the previous DA's objections to the mandatory compelled interview within 48 hours will dissipate, and the PPB will not feel pressured to withhold information from the public. The PPB and the City should give out as much information as possible, especially to allay concerns about how rumors spread after officer involved shootings. Putting out information faster will stem that tide.

--A side note on this issue: people who have been wounded by the police and brought to the hospital have been identified in shifting timelines. Chase Peebles was identified while in the hospital, but six days after he was shot (October/November 2017). Jason Hansen was not identified until nearly three weeks after he was shot, but while he was in the hospital (October/November 2018). Ryan Beisley

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was not identified 24 hours after he was shot supposedly for investigative reasons, but his name was released when he got out of the hospital two days after the incident (December 2018).

Releasing Information on Officers: We previously expressed our thanks for Section 9.1 language which now restricts the release of a victim's criminal information without it being requested. But we noted the Bureau rarely talks about the history of officers involved in shootings, especially when they have been involved in previous misconduct and/or deadly force situations. The Directive only requires the release of the officer's name and length of service (Sections 9.8 and 9.7.4). Section 9.8 says the officer's names should be released within 24 hours, but still includes an exception added in 2017 for a "credible threat." We pointed out in previous comments that this language echoes a poorly considered piece of legislation that was defeated in the 2016 Oregon legislature and should be removed from the Directive. If the Bureau is committed to transparency, officer names must be released.

Contacting Oregon and US Departments of Justice: In our previous comments, we called for a deleted section requiring the Bureau to contact the Department of Justice to be reinserted. We believe this should include both the US Department of Justice-- the Civil Rights division and whoever collects data on officer involved shootings-- and the State of Oregon DOJ, which began collecting and posting narratives about deadly force incidents in late 2016 (after Portland Copwatch repeatedly called attention to the 2007 statute requiring such information be released).

CONCLUSION

Portland Copwatch is encouraged that the Portland Committee on Community Engaged Policing has begun discussing Directives at its meetings, albeit mostly at subcommittee meetings requiring interested community members to attend multiple meetings for meaningful input. However, the sheer size of these policies (some are over 10 pages long) means that trying to review them all in a 15 day period is very difficult for groups who only meet once a month. PCW was able to update previous comments because we've been at this since 2014. But we and other community members should be given more time to do the first review.

On that note, the Bureau should also release any problem areas or legal changes that they are intending to address in the revisions, so as to narrow the focus to those places that will likely undergo modification.

In terms of the Bureau's final packets, which do include all public comments and a "redline" version to show what changes were made, it might be worthwhile discussing the content of the finalized policies in public meetings as well. Frequently when there are references to comments made but not acted upon, the answers are unsatisfactory and dismissive; we should be able to engage in a dialogue to help move the Bureau more toward one that is free from brutality, corruption and racism.

--dan handelman and other members of
Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch

1015.00, Less Lethal Weapons and Tools

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS 161.015, General Definitions
- ORS 161.195, “Justification” described
- ORS 161.205, Use of physical force generally
- ORS 181A.708, Use of chemical incapacitants, kinetic impact projectiles and sound devices
- DIR 0305.00, Active Bystandership, Intervention, and Anti-Retaliation
- DIR 0315.30, Satisfactory Performance
- DIR 0330.00, Internal Affairs, Complaint Intake and Processing
- DIR 0333.00, Criminal Investigations of Police Bureau Employees
- DIR 0345.00, Employee Information System
- DIR 0416.00, Critical Incident - Temporary Altered Duty
- DIR 0630.05, Vehicle Interventions and Pursuits
- DIR 0630.45, Emergency Medical Custody Transports
- DIR 0630.50, Emergency Medical Aid
- DIR 0631.70, Investigation of Animal Problems
- DIR 0635.10, Crowd Management/Crowd Control
- DIR 0640.02, Photography and Digital Imaging
- DIR 0850.20, Mental Health Crisis Response
- DIR 0900.00, General Reporting Guidelines
- DIR 0910.00, Use of Force Reporting, Review, and Investigation
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- **Baton:** A Bureau-issued instrument designed for guiding, blocking, pushing, jabbing, striking, or applying control holds while engaged in a police action.
- **Conducted Electrical Weapon (CEW):** A weapon, including Tasers, designed primarily to discharge electrical charges into a person that will cause involuntary muscle contractions and overrides the person’s voluntary motor responses.
 - **Arcing:** Activating a CEW without discharging the probes or making contact with a person, to serve as a warning to the person.
 - **CEW Application:** The contact and delivery of an electrical impulse to a person using a CEW.
 - **CEW Cycle:** An activation of the CEW for a duration of up to five (5) seconds.
- **Crowd Management:** A public security practice in which crowds are managed to prevent the outbreak of crowd rushes, affrays, fights or riots, or in which an assembly, protest or demonstration is dispersed.

- **Deadly/Lethal Force:** Any use of force likely to cause death or serious physical injury, including the use of a firearm, neck hold, or strike to the head, neck or throat with a hard object.
- **Feasible:** When time and safety allow for a particular action.
- **Force:** Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.
- **Chemical Incapacitant:** The following, together or separately:
 - (i) Handheld or launched munitions and devices specifically designed to cause temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm through the toxic properties of toxic chemicals, or their precursors, that would be released as a result of the employment of the handheld or launched munitions and devices; and
 - (ii) Any equipment specifically designed for use directly in connection with the employment of handheld or launched munitions and devices as described in subparagraph (i) of this subparagraph. **“Chemical incapacitant” includes handheld and launched chemical munitions, but does not include tear gas.**
- **Incident Commander (IC):** The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has the overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.
- **Involved Member:** For this directive, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- **Kinetic Impact Projectile (KIP):** All non-lethal, less lethal, or semi-lethal projectiles, including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds, and pellet rounds.
- **Less Lethal Force:** Force employed that is neither likely nor intended to cause death or serious physical injury.
- **Less Lethal Weapon:** An apprehension or restraint tool that, when used as designed and intended, are less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- **Mental Health Crisis:** An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress , a thought disorder , obvious changes in functioning and/or catastrophic life events , which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.

- **Mental Illness:** Health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. Alterations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.
- **Necessary:** No objectively reasonable and effective alternative presently exists to effect a lawful objective.
- **Objectively Reasonable:** The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms "reasonable" and "reasonably" in this policy refer to objective reasonableness. All assertions of a member's knowledge, intent, deliberateness, or inadvertence under this policy must be objectively reasonable and the Bureau shall assess all assertions under the objective reasonableness standard.
- **Physical Injury:** As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- **Serious Physical Injury:** As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
- **Tear Gas:** Oleoresin capsicum or orthochlorobenzalmalononitrile, or other similar chemicals meant to accomplish the same effect, administered by any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of the chemicals.

Policy:

1. This policy establishes Bureau requirements for the use of Bureau-authorized and -issued less lethal weapons.

Procedure:

1. Use of Less Lethal Force and Weapons.
 - 1.1. Members shall act in accordance with Directive 1010.00, Use of Force, which governs all use of force.
 - 1.2. Members shall report all force use in accordance with Directive 0910.00, Use of Force Reporting, Review, and Investigation.

- 1.3. Less lethal force tactics provide members a range of options, from the use of bodily force to the use of less lethal weapons, for managing encounters with threatening or actively resistive persons. Although less lethal force is not likely to cause death or serious injury, members shall consider that the use of less lethal force can still result in death or serious injury.
- 1.4. When feasible, members shall announce to other members their intent to use a less lethal weapon before using the weapon, in an attempt to avoid sympathetic fire.
- 1.5. Members shall verbally notify a supervisor, as soon as practical, when they hit a person in the head, neck, throat or groin with any KIP or baton, or strike those areas with or against a hard object.
 - 1.5.1. Unless extraordinary circumstances exist, a supervisor who receives notification of a use of force, shall respond to the scene, and in consultation with the Detective Division, determine the category of review, as established in Directive 0910.00, Use of Force Reporting, Review, and Investigation.
2. Batons.
 - 2.1. Members shall only use a Bureau-issued baton.
 - 2.2. Members shall make reasonable efforts to ensure that they use the baton on target areas, as identified in training, such as a person's arms or legs.
 - 2.3. Members shall not deliberately target the person's head or throat, neck, spine, or groin, unless deadly force is authorized.
3. Kinetic Impact Projectiles (KIPs).
 - 3.1. Members shall make reasonable efforts to ensure that they use KIPs on target areas, as identified in training. When firing from under seven yards' distance, members shall aim for the person's legs. When firing from over seven yards' distance, members shall aim anywhere below the person's waistline, except the groin.
 - 3.2. Members shall not intentionally target a person's head, neck, throat, or groin area, except against a person engaged in conduct otherwise justifying the use of deadly force.
 - 3.3. KIPs with chemical payloads are subject to restrictions established by state law and Bureau policy.
4. Chemical Incapacitants.
 - 4.1. When using handheld and launched chemical incapacitants, members shall attempt to minimize exposure to non-target persons.
 - 4.2. Members shall not use handheld or launched chemical incapacitants on the operator of a motor vehicle that is immediately capable of being driven, without justification for doing so and unless no reasonable alternative is apparent.

- 4.3. Members shall act in accordance with the post-use procedures outlined in Directive 0630.50, Emergency Medical Aid.
5. Tear Gas.
 - 5.1. Members shall only use tear gas when authorized by an Incident Commander and as further restricted by Directive 635.10, Crowd Management/Crowd Control, and Bureau SOP.
 - 5.2. Prior to using tear gas, members shall consider the proximity of the possible use to residential areas, hospitals, schools, and freeways or areas with high density traffic.
 - 5.3. When using tear gas, members shall attempt to minimize exposure to non-target persons.
 - 5.4. Members shall not use handheld or launched chemical incapacitants on the operator of a motor vehicle that is immediately capable of being driven, without justification for doing so and unless no reasonable alternative is apparent.
 - 5.5. Members shall act in accordance with the post-use procedures outlined in Directive 0630.50, Emergency Medical Aid.
6. Flash Sound Diversion/Distracted Devices.
 - 6.1. Members shall only use FSDDs when authorized by an Incident Commander and as further restricted by Bureau Standard Operating Procedures (SOPs).
7. Conducted Electrical Weapon System (CEW).
 - 7.1. Use.
 - 7.1.1. Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.
 - 7.1.2. Members shall make reasonable efforts to use CEWs on the target area, as identified in training, such as lower-center mass for front shots.
 - 7.1.3. Members may use the CEW for warning tactics such as arcing or activating the lasers in an attempt to gain compliance.
 - 7.1.4. Members should point the CEW in a safe direction when arcing and never intentionally direct the lasers into the eyes of a person.
 - 7.1.5. Members shall make every reasonable effort to attempt handcuffing during or between each CEW cycle.
 - 7.1.6. Only one member may intentionally deploy a CEW at any given time on a person, except where deadly force is authorized.
 - 7.1.7. Members using a CEW operationally, if feasible, should be supported by at least one member capable of providing immediate cover.
 - 7.1.8. After one standard CEW cycle, the member shall re-evaluate the situation to determine if subsequent cycles are necessary; when feasible, members shall issue a warning prior to each additional cycle and wait a reasonable amount of time to allow the person to comply. Members shall describe and explain the reasonableness of each CEW cycle in their use of force reports.

7.2. Restrictions.

- 7.2.1. Members shall not deliberately target the head, face, or groin.
- 7.2.2. Members shall not use a CEW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.
- 7.2.3. Members shall avoid the use of more than three CEW applications against the same person, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use.
- 7.2.4. Members shall not use a CEW for pain compliance against those a reasonable officer would believe have an actual or perceived mental illness or are in mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.
- 7.2.5. Members shall not use a CEW on a handcuffed or otherwise restrained person, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed person.
- 7.2.6. Members shall not use a CEW when there is a significantly heightened risk of secondary injury (e.g., uncontrolled fall, drowning) to the person or others, unless the member reasonably believes the threat or danger posed by the person outweighs the risk of injury that might occur as a result of loss of control.
- 7.2.7. Members shall not draw both a firearm and a CEW at the same time.
- 7.2.8. Members shall not use a CEW on persons when the member reasonably believes the person has come in contact with flammables or the person is in an area where flammables are present.

7.3. Post-CEW Use On-Scene Supervisor Responsibilities.

- 7.3.1. A member shall photograph deployed tags, cartridges, and probes at the scene.
- 7.3.2. If possible, members shall photograph the areas of probe strikes, whether probes penetrated the person's skin, left visible marks or only penetrated the person's clothing, before and after probe removal, as well as any other marks, or lack of marks, left by the CEW. Consent should be obtained before photographing personally sensitive areas.
- 7.3.3. All photographs shall be placed into evidence in accordance with Bureau policy.
- 7.3.4. Supervisors shall verify that the involved member summons medical services, if necessary.

8. Canine Use.

8.1. Members may use a police canine to:

- 8.1.1. Protect the officer(s), the police canine, or others from an immediate threat.
- 8.1.2. Apprehend or control persons officers reasonably believe to be involved in a crime.
- 8.1.3. Apprehend a fleeing criminal suspect, when the canine officer reasonably believes that probable cause exists to arrest the person for a crime.
- 8.1.4. Apprehend hiding persons, when it would be unsafe for officers to proceed into an area.

8.2. Members shall refer to the Canine Unit SOPs for additional guidance.

9. Restraint Device.

9.1. Hobble Restraint.

9.1.1. Members may use a hobble restraint to control a person beyond the capability of handcuffs.

9.1.1.1. The restraint should supplement handcuffs. Members shall not use the restraint in lieu of handcuffs.

9.1.2. If a person attempts to slip their handcuffs to the front of their body, members may use the restraint on the person's upper arms or legs to prevent such an action.

9.1.3. Members may use the restraint to secure a combative person's legs together to prevent kicking.

9.1.4. Members may use the restraint to secure an animal.

9.1.5. Members shall not use the maximum restraint technique (i.e., securing a person's knees or ankles in a straight leg restraint, then fastening the hobble to the handcuffs).

9.1.6. Once secured, members shall not leave a person on their stomach for an extended period. If feasible, members shall place the person on their side or in a seated position.

1015.00, Less Lethal Weapons and Tools

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS 161.015, General Definitions
- ORS 161.195, “Justification” described
- ORS 161.205, Use of physical force generally
- ORS 181A.708, Use of chemical incapacitants, kinetic impact projectiles and sound devices
- DIR 0305.00, Active Bystandership, Intervention, and Anti-Retaliation
- DIR 0315.30, Satisfactory Performance
- DIR 0330.00, Internal Affairs, Complaint Intake and Processing
- DIR 0333.00, Criminal Investigations of Police Bureau Employees
- DIR 0345.00, Employee Information System
- DIR 0416.00, Critical Incident - Temporary Altered Duty
- DIR 0630.05, Vehicle Interventions and Pursuits
- DIR 0630.45, Emergency Medical Custody Transports
- DIR 0630.50, Emergency Medical Aid
- DIR 0631.70, Investigation of Animal Problems
- DIR 0635.10, ~~Portland Police Bureau Response to Demonstrations and Events~~ Crowd Management/Crowd Control
- DIR 0640.02, Photography and Digital Imaging
- DIR 0850.20, Mental Health Crisis Response
- DIR 0900.00, General Reporting Guidelines
- DIR 0910.00, Use of Force Reporting, Review, and Investigation
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

Definitions:

- Baton: A Bureau-issued instrument designed for guiding, blocking, pushing, jabbing, striking, or applying control holds while engaged in a police action.
- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a person that will cause involuntary muscle contractions and overrides the person’s voluntary motor responses.
 - Arcing: Activating a CEW without discharging the probes or making contact with a person, to serve as a warning to the person.
 - CEW Application: The contact and delivery of an electrical impulse to a person using a CEW.
 - CEW Cycle: An activation of the CEW for a duration of up to five (5) seconds.
 - ~~Drive Stun: The process of applying energy to a person through the terminal on a cartridge or CEW.~~

- Crowd Management: A public security practice in which crowds are managed to prevent the outbreak of crowd rushes, affrays, fights or riots, or in which an assembly, protest or demonstration is dispersed.
- Deadly/Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm, neck hold, or strike to the head, neck or throat with a hard object.
- Feasible: When time and safety allow for a particular action.
- Force: Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.
- ~~Handheld~~ Chemical Incapacitant: The following, together or separately:
 - (i) Handheld or launched munitions and devices specifically designed to cause temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm through the toxic properties of toxic chemicals, or their precursors, that would be released as a result of the employment of the handheld or launched munitions and devices; and
 - (ii) Any equipment specifically designed for use directly in connection with the employment of handheld or launched munitions and devices as described in subparagraph (i) of this subparagraph. **Handheld-chemical-“Chemical incapacitant” includes handheld and launched chemical munitions, but does not include tear gas.**
- Incident Commander (IC): The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has the overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.
- Involved Member: For this directive, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- Kinetic Impact Projectile (KIP): All non-lethal, less lethal, or semi-lethal projectiles, including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds, and pellet rounds.
- Less Lethal Force: Force employed that is neither likely nor intended to cause death or serious physical injury.
- Less Lethal Weapon: An apprehension or restraint tool that, when used as designed and intended, are less likely to cause death or serious physical injury than a conventional lethal weapon such as a firearm.
- Mental Health Crisis: An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (~~e.g., anxiety, depression, anger, fear,~~

~~panic, hopelessness),² a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment),² obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g., disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters),² which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.~~

- Mental Illness: Health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. Alterations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.
- Necessary: No objectively reasonable and effective alternative presently exists to effect a lawful objective.
- Objectively Reasonable: The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms "reasonable" and "reasonably" in this policy refer to objective reasonableness. All- assertions of a member's knowledge, intent, deliberateness, or inadvertence under this policy must be objectively reasonable and the Bureau shall assess all assertions under the objective reasonableness standard.
- Physical Injury: As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- Serious Physical Injury: As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
- Tear Gas: Oleoresin capsicum or orthochlorobenzalmalonitrile, or other similar chemicals meant to accomplish the same effect, administered by any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of the chemicals.

Policy:

1. This policy establishes Bureau requirements for the deploymentuse of Bureau-authorized and -issued less lethal weapons.

Procedure:

1. Use of Less Lethal Force and Weapons.
 - 1.1. Members shall act in accordance with Directive 1010.00, Use of Force, which governs all use of force.
 - 1.2. Members shall report all force use in accordance with Directive 0910.00, Use of Force Reporting, Review, and Investigation.
 - 1.3. Less lethal force tactics provide members a range of options, from the use of bodily force to the use of less lethal weapons, for managing encounters with threatening or actively resistive persons. Although less lethal force is not likely to cause death or serious injury, members shall consider that the use of less lethal force can still result in death or serious injury.
 - 1.4. When feasible, members shall announce to other members their intent to use a less lethal weapon before using the weapon, in an attempt to avoid sympathetic fire.
 - 1.5. Members shall verbally notify a supervisor, as soon as practical, when they hit a person in the head, neck, throat or groin with any ~~kinetic impact projectile (KIP)~~KIP or baton, or strike those areas with or against a hard object.
 - 1.5.1. ~~When feasible, supervisors~~Unless extraordinary circumstances exist, a supervisor who receives notification of a use of force, shall respond to the scene, and in consultation with the Detective Division, determine the category of review, as established in Directive 0910.00, Use of Force Reporting, Review, and Investigation.

~~2. Less Lethal Weapon Restrictions.~~

~~A person's mere flight from an officer is not a sufficient reason for the use of a less lethal weapon.~~

~~2.1. Members shall not use less lethal weapons on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to commit suicide, or is in the act of causing harm to themselves or others, or the member has probable cause that the person has committed a Measure 11 crime:~~

~~2.1.1. Children who are known to be, or are obviously under the age of fifteen.~~

~~2.1.2. An individual who is known to be, or is obviously pregnant.~~

~~2.1.3. A person who is known to be, or is obviously medical fragile.~~

~~3.2.~~ Batons.

~~3.1.2.1.~~ Members shall only use a Bureau-issued baton.

~~3.2.2.2.~~ Members shall make reasonable efforts to ensure that they use the baton on preferred target areas, as identified in training, such as a person's arms or legs.

~~3.3.2.3.~~ Members who use the baton to strike, jab, or otherwise use the tool in a non-pushing manner, Members shall not deliberately target the person's head or throat, neck, spine, or groin, unless deadly force is authorized.

4.3. Kinetic Impact Projectiles (KIPs).

4.1.3.1. Members shall make reasonable efforts to ensure that they use KIPs on ~~preferred~~ target areas, as identified in training. When firing from under seven yards' distance, members shall aim for the person's legs. When firing from over seven yards' distance, members shall aim anywhere below the person's waistline, except the groin.

4.2.3.2. Members shall not ~~discharge KIPs in a manner that~~ intentionally ~~targets~~ target a person's head, neck, throat, or groin area, except against a person engaged in conduct otherwise justifying the use of deadly force.

3.3. Handheld KIPs with chemical payloads are subject to restrictions established by state law and Bureau policy.

5.4. Chemical Incapacitants.

5.1.4.1. When ~~deploying~~ using handheld and launched chemical incapacitants, members shall attempt to minimize exposure to non-target persons.

4.2. Members shall not use handheld or launched chemical incapacitants on the operator of a motor vehicle that is immediately capable of being driven, without justification for doing so and unless no reasonable alternative is apparent.

4.3. Members shall act in accordance with the post-use procedures outlined in Directive 0630.50, Emergency Medical Aid.

5. Tear Gas.

5.1. Members shall only use tear gas when authorized by an Incident Commander and as further restricted by Directive 635.10, Crowd Management/Crowd Control, and Bureau SOP.

5.2. Prior to using tear gas, members shall consider the proximity of the possible use to residential areas, hospitals, schools, and freeways or areas with high density traffic.

5.3. When using tear gas, members shall attempt to minimize exposure to non-target persons.

5.2.5.4. Members shall not use ~~Members shall not use handheld~~ handheld or launched chemical incapacitants on the operator of a motor vehicle that is immediately capable of being driven, without justification for doing so and unless no reasonable alternative is apparent.

~~Actions Following the Use of Handheld Chemical Incapacitants.~~

5.5. Members shall act in accordance with the post-use procedures outlined in Directive 0630.50, Emergency Medical Aid.

6. Flash Sound Diversion/Distractive Devices.

6.1. Members shall only use FSDDs when authorized by an Incident Commander and as further restricted by Bureau Standard Operating Procedures (SOPs).

~~5.3.1.1.~~

~~5.3.1. Members shall make a reasonable effort to ensure that affected individuals are exposed to fresh air.~~

~~5.3.2. Members shall, as soon as practical, relieve the person's discomfort by washing aerosol spray from the person's eyes with a Bureau-approved solution, unless the person refuses by words or action.~~

~~5.3.3. Members shall notify the receiving agency of handheld chemical incapacitant exposure and monitor the condition of the exposed individual they take into custody. If the individual's condition appears to worsen while in the member's custody, the member shall notify medical personnel.~~

6.7. Conducted Electrical Weapon System (CEW).

6.1.7.1. Use.

7.1.1. Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.

~~6.1.1.7.1.2.~~ Members shall make reasonable efforts to use CEWs on the preferred target area, as identified in training, such as lower-center mass for front shots.

~~6.1.2.7.1.3.~~ Members may use the CEW for warning tactics such as arcing or activating the lasers in an attempt to gain compliance.

~~6.1.3.7.1.4.~~ Members should point the CEW in a safe direction when arcing and never intentionally direct the lasers into the eyes of a person.

~~6.1.4.1.1.1.~~ ~~Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.~~

~~6.1.5.7.1.5.~~ Members shall make every reasonable effort to attempt handcuffing during or between each CEW cycle.

~~6.1.6.7.1.6.~~ Only one member may intentionally deploy a CEW at any given time on a person, except where deadly force is authorized.

~~6.1.7.7.1.7.~~ Members ~~deploying~~using a CEW operationally, if feasible, should be supported by at least one member capable of providing immediate cover.

~~6.1.8.7.1.8.~~ After one standard CEW cycle, the member shall re-evaluate the situation to determine if subsequent cycles are necessary; when feasible, members shall issue a warning prior to each additional cycle and wait a reasonable amount of time to allow the person to comply, ~~unless doing so would present a danger to the member(s) or others.~~ Members shall describe and explain the reasonableness of each CEW cycle in their use of force reports.

~~6.2.7.2.~~ Restrictions.

~~6.2.1.7.2.1.~~ Members shall not deliberately target the head, face, or groin.

~~6.2.2.7.2.2.~~ Members shall not use a CEW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.

~~6.2.3.7.2.3.~~ Members shall avoid the use of more than three CEW applications against the same ~~individual~~person, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use.

~~6.2.4.7.2.4.~~ Members shall not use a CEW for pain compliance against those a reasonable officer would believe have an actual or perceived mental illness or are in

mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.

~~6.2.5.7.2.5.~~ Members shall not use a CEW on a handcuffed or otherwise restrained person, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed person.

~~6.2.6. Members shall not use a CEW for crowd management purposes.~~

~~6.2.7.7.2.6.~~ Members shall not use a CEW when there is a significantly heightened risk of secondary injury (e.g., uncontrolled fall, drowning) to the person or others, unless the member reasonably believes the threat or danger posed by the person outweighs the risk of injury that might occur as a result of loss of control.

~~6.2.8.7.2.7.~~ Members shall not draw both a firearm and a CEW at the same time.

~~6.2.9.7.2.8.~~ Members shall not use a CEW on persons when the member reasonably believes the person has come in contact with flammables or the person is in an area where flammables are present.

7.3. ~~Actions following the use of a CEW.~~ Post-CEW Use On-Scene Supervisor Responsibilities.

7.3.1. A member shall photograph deployed tags, cartridges, and probes at the scene.

~~6.2.10. Involved member responsibilities.~~

~~6.2.11.7.3.2.~~ If possible, members shall photograph ~~consistent with Directive 0640.02, Photography and Digital Imaging,~~ the areas of probe strikes, whether probes penetrated the person's skin, left visible marks or only penetrated the person's clothing, before and after probe removal, as well as any **other** marks, or lack of marks, left by ~~drive-stun-the CEW.~~ Consent should be obtained before photographing personally sensitive areas. ~~All photographs shall be placed into evidence in accordance with Bureau policy.~~

~~6.2.12. All photographs shall be placed into evidence in accordance with Bureau policy.~~ Supervisor responsibilities.

~~6.2.12.1. Verify that the involved member collects evidence of CEW deployment, including photographs of tags, cartridges, and probes.~~

7.3.3. Verify

~~6.2.13.7.3.4.~~ Supervisors shall verify that the involved member summons medical services, if necessary.

7.8. Canine Deployment Use.

~~7.1.8.1.~~ Members may **deploy** use a police canine to:

~~7.1.1.8.1.1.~~ Protect the officer(s), the police canine, or others from an immediate threat.

~~7.1.2.8.1.2.~~ Apprehend or control persons officers reasonably believe to be involved in a crime.

~~7.1.3.8.1.3.~~ Apprehend a fleeing criminal suspect, when the canine officer reasonably believes that probable cause exists to arrest the person for a crime.

~~7.1.4.8.1.4.~~ 8.1.4. Apprehend hiding persons, when it would be unsafe for officers to proceed into an area.

~~7.2.8.2.~~ 8.2. Members shall refer to the Canine Unit SOPs for additional guidance.

8.9. Restraint Device.

8.1.9.1. Hobble Restraint.

~~8.1.1.9.1.1.~~ 8.1.1.9.1.1. Members may use a hobble restraint to control a person beyond the capability of handcuffs.

~~8.1.1.1.9.1.1.1.~~ 8.1.1.1.9.1.1.1. The restraint should supplement handcuffs. Members shall not use the restraint in lieu of handcuffs.

~~8.1.2.9.1.2.~~ 8.1.2.9.1.2. If a person attempts to slip their handcuffs to the front of their body, members may use the restraint on the person's upper arms or legs to prevent such an action.

~~8.1.3.9.1.3.~~ 8.1.3.9.1.3. Members may use the restraint to secure a combative person's legs together to prevent kicking.

~~8.1.4.9.1.4.~~ 8.1.4.9.1.4. Members may use the restraint to secure an animal.

~~8.1.5.9.1.5.~~ 8.1.5.9.1.5. Members shall not use the maximum restraint technique (i.e., securing a person's knees or ankles in a straight leg restraint, then fastening the hobble to the handcuffs).

~~8.1.6.9.1.6.~~ 8.1.6.9.1.6. Once secured, members shall not leave a person on their stomach for an extended period. If feasible, members shall place the person on their side or in a seated position.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, June 08, 2022 12:03:25 PM
Last Modified: Wednesday, June 08, 2022 12:05:21 PM
Time Spent: 00:01:56

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Q1

Please provide feedback for this directive

I think the police should be able to use tear gas to disperse riots. I also think they should be able to use all methods on people with mental illnesses. The mission of police is to protect the people of Portland and they should have all means available for doing so.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, June 29, 2022 2:03:48 PM
Last Modified: Wednesday, June 29, 2022 2:04:36 PM
Time Spent: 00:00:48

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Q1

Please provide feedback for this directive

COMMENTS ON LESS LETHAL, FORCE REPORTING AND IDENTIFICATION DIRECTIVES, JUNE 2022

To Chief Lovell, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in June which focus on "less lethal" weapons, force reporting and identification < <http://www.portlandoregon.gov/police/59757> >.

With the weapons policy (1015.00), we seem to have gotten what we'll call the "boomerang effect" in which we called out the Bureau for removing some information (allowable use of the weapons) but leaving in other (prohibited uses). Rather than add back the allowable uses section, the PPB removed both sections in the new draft. There are still some sections outlining restrictions on a per-weapon basis, but no broad restrictions.

Similarly, we expressed concern last month that the Directive on police violence against animals removed reporting requirements. The PPB has cut those requirements out of the Force Reporting Directive as well (910.00)

There also seem to be good developments in the Identification Directive (312.50), but perhaps more clarity is needed.

Once again we suggest that the Bureau should give labels to all of the major sections of the Directives, such as the Definitions, Policy and Procedure sections. Our comments refer to the Procedure section unless otherwise noted.

DIRECTIVE 312.50 IDENTIFICATION/BUSINESS CARDS (last comments --January 2022)

--Positive Change for Transparency: It appears on its surface that exceptions to the requirement to always wear identification, provide a name and/or business cards have been removed. We think this means there will no longer be blanket exceptions to the important rule in Section 2.1: "Members in uniform shall visibly display their bureau-issued badge and nametag on their outermost garment and carry their Bureau-issued ID while on duty." The exceptions for members was removed as well as the Supervisors' ability to "relieve members of identification mandates." Renaming the member section from Use of Identification to Providing Identification (Section 3) also emphasizes the importance of officers getting that information to the public.

--And the Bureau Taketh Away: Section 3.1 gives a new set of exceptions to giving a name and Department of Public Safety, Standards and Training (DPSST) number, saying it has to be "practical, safe and tactically feasible" to do so.

---In addition, giving out a business card was required by the previous version in what is now Section 3.1.1, but is now made optional. The requirement was a result of community-led demands and should be restored.

--Badge Vs. DPSST Number, Continued: The Bureau specifically referencing an officer's DPSST number in Section 3.1 is a good step forward and seemingly responsive to our previous comments; however, that number is referred to as a "badge number" in Section 4.1. The Directive should clearly state that "badge number" means a DPSST number.

--How Long Has This Been Going On?: It's not clear why the Bureau has a full 14 days to provide an employee's name to a member of the public who provides a full DPSST number (also Section 4.1). Once the number is given, looking up the name should take a matter of seconds either in the Bureau's database or the DPSST online system.

---Worse, Section 4.2 gives the PPB seven days to acknowledge a public request if there's only a partial name, partial "badge number" (see above), photo, police vehicle number, physical description or location and date of the encounter. Then the Bureau has an extra seven days to provide the information or reasons they could not find it.

1015.00 Directive Feedback (2UR)

--Common Courtesy: We will repeat here that officers should not give sarcastic feedback to community members who ask for their identification, including but not limited to officers who have told people they can find a name/DPSST number on a citation or summons.

DIRECTIVE 1015.00 LESS LETHAL WEAPONS (previous comments in April 2022)

--The Boomerang Effect: As noted in our introduction, the Bureau has cut the information on general prohibited use of weapons rather than add in allowable uses. We urge the Bureau to reinsert both sets of guidelines so that officers don't have to cross-reference to find such information (if it is indeed located in other policies). We wrote: "There are multiple sections on prohibited uses, but guidance saying what level of resistance is being used by a community member (active/ physical resistance, active aggression, and other terms known to police) is no longer available. This will, we predict, lead to the over-use and misuse of these weapons."

---Important Bans Gone: The prohibitions being cut means there is no more restriction on the use of Less Lethal weapons against a person who is merely running away (previous Section 2.1). Also all prohibitions on using the weapons against children, pregnant people and those who are medically fragile have been erased.

---More Boomerang?: PCW had previously asked that the Bureau prohibit the use of canines at protests (per Directive 1010 Section 7.1.4) in addition to Tasers; instead the Taser prohibition was cut. There is also no prohibition on use of chemical incapacitants reflecting Directive 1010 Section 7.1.3.

--A Good Cut: We had applauded the PPB for asking officers to treat people's eyes with a "Bureau approved solution" after they have been exposed to PPB chemical weapons, but cautioned against police applying any substance to a person without permission. Instead the subsection was cut; it is probably best to let medics tend to people suffering from the chemicals. Perhaps, though, ensuring timely treatment should be added to this Directive.

--Mostly Clarified: We previously wrote that what is now Section 5.3.2.1 asked Supervisors to let officers gather evidence of their own Taser use; the rewrite gives the Supervisor the responsibility to gather at least the photographic evidence. This does not take away from our overall recommendation for non-police to gather on scene evidence of police use of force.

The rest of these comments are almost verbatim from April, as no other meaningful changes were made by the Bureau. We have updated Section numbers to match the revised draft.

--Emphasize Less Lethal is Not "Non Lethal": The Directive includes policies on Less Lethal Weapons, Batons, Conducted Energy Weapons (Tasers), Handheld Chemical Incapacitants (formerly "aerosol restraints"), Kinetic Impact Projectiles (formerly Impact Munitions), and Hobbles. It also includes the use of police dogs ("canine deployment"), though we would think even the police handlers would not like to consider their companion animals as "weapons." The Directive cautions that these weapons "can still result in death or serious injury" (Section 1.3). We again urge the Bureau to carry forward the warning from the definition of "Impact Munition" in Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal" and apply that to this entire policy.

--Crowd Munition Clarity: After the 2020 protests against police violence, Copwatch asked the Bureau to both hold officers to existing policies and be more restrictive and specific in how weapons are used. The new Directive does not clarify use on demonstrators.

--Legal Use of Taser: We continue to be concerned that there is no guidance reflecting the Ninth Circuit Court of Appeals ruling that Tasers are a serious enough use of force that they can only be used when there is an "active threat."

--Taser Warning "Shots": We remain concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending police use of force (5.1.3), especially since warning shots from a firearm are prohibited (1010 Section 9.3.1.1). The Directive also still allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (5.2.2-- in the restrictions section), which is not a form of de-escalation. Section 5.1.3 also allows using the Taser's laser sight light as a means of warning, which is similarly unreasonable. We continue to remind the Bureau

1015.00 Directive Feedback (2UR)

that "Laser Light Only" was tracked as a use of force until 2008 and the Auditor and the Community/Police Relations Committee both suggested that practice should be reinstated.

--People Who Should Not Be Hit: Hoping again that the Bureau will re-insert the list of persons on whom "less lethals" should not be used, and the old prohibition against using them on people over the age of 60 should return.

--People Who Should Not Be Electrocuted: We stand by our comment that it is commendable (and in line with the Settlement Agreement) that officers should avoid using Tasers against persons who seem to be in mental health crisis (Section 5.2.4), but there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use.

--Crowd Control Weapons: Tear gas is not mentioned in the "Less Lethal" Directive procedures, even if just to note that guidance for its use can be found in 1010.00 Section 7.1.5 (and, perhaps, the Crowd Control Directive).

--Broad Impact of "Less Lethal" Weapons: The admonition "to minimize exposure to non-targeted persons" (Section 4.1) is a good concept, but meaningless when officers use pepper spray or other chemicals indiscriminately. Along these lines, a previous restriction to only use pepper spray from four or more feet away has still not been reinserted.

--Exceptions Make Bad Rules: The prohibition on using chemical weapons on the driver of a vehicle allows such use with "justification" or when there is "no reasonable alternative." This is not a prohibition, then. If the Bureau wishes to retain the exemptions, a clearer list of allowable circumstances should be listed. Along those lines, as previously noted by PCW, Section 2.3 restricts the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized," meaning hitting these areas is not prohibited.

--Which Force is More Serious: There are still references in the Taser section about "avoid[ing] a use of a higher level of force" (5.2.4 and 5.2.5). Without a continuum of force or guidance on when certain weapons can be used, it is not clear what this means. We had a much longer list of concerns in our previous comments, but that list was based on the guidance which has been cut.

CONCLUSION

Once again, having thirty days to review these Directives is helpful, but Portland Copwatch would still like to see review periods extended to allow for groups who only meet once a month to give input. The Chief has spoken publicly about how the Directives process shows trust-building, but the low level of participation is likely in part a result of the short time frames. People also do not generally have the time to read through the entire policies, especially the longer ones, so a summary page of changes made and the reasons for them would go a long way to improve the process. PCW also continues to believe the Bureau would benefit by holding public meetings to discuss the intent behind proposed changes and to take questions about community ideas for improvements to policies.

Thank you

--dan handelman and other members of
Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

Portland Copwatch

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, March 22, 2022 12:59:00 PM
Last Modified: Tuesday, March 22, 2022 1:07:01 PM
Time Spent: 00:08:00

Page 1

Q1

Please provide feedback for this directive

Sections 6.2.4 and 6.2.5 both use similar but differing language about avoiding a higher or greater level of force. This language is vague and leads to differing interpretations.

Section 6.2.6. also contains vague language about not using a CEW for crowd management purposes. If the intent is to prohibit the use for crowd dispersals, use that language. Otherwise it is open to differing interpretations and may lead an officer to decide to not use a CEW on an individual within a protest setting when it would otherwise be allowed.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, March 22, 2022 1:42:12 PM
Last Modified: Tuesday, March 22, 2022 2:20:09 PM
Time Spent: 00:37:57

Page 1

Q1

Please provide feedback for this directive

For Definitions:

If the Bureau is insisting on using the definition of Handheld Chemical Incapacitant (which does NOT include "tear gas") as:

(i) Handheld munitions and devices specifically designed to cause temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm through the toxic properties of toxic chemicals, or their precursors, that would be released as a result of the employment of the handheld munitions and devices;

then this definition should be reflected as being defined in ORS, especially given the use of the phrase "permanent harm through the toxic properties of toxic chemicals" is one created recently by the Legislature (HB 2928 and HB 4008), and does not reflect in any accurate way the use of NON-TOXIC pepper spray by PPB. Failing to do so would seem to indicate PPB knowingly deploys a toxic chemical on community members as a less lethal tool.

For Section 3:

Section 3.2. states "Members shall make reasonable efforts to ensure that they use the baton on preferred target areas, such as a person's arms or legs." This should be modified to reflect this subsection applies to strikes, versus a push or guide, as these "preferred target areas" would not be effective for those uses, and seems to disallow the torso as a "preferred target area" for a push or guide. A jab would be used on the upper legs and waistline area, absent the groin, as these are the "preferred target areas" for this technique.

For Section 6:

It seems 6.1.4., which states "Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm" should be of a slightly higher priority in this section, perhaps moved to 6.1.1.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, March 23, 2022 12:48:21 PM
Last Modified: Wednesday, March 23, 2022 12:54:27 PM
Time Spent: 00:06:05

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Q1

Please provide feedback for this directive

5.3.2 Mentions a bureau solution to wash away OC. We don't have anything like that. The best thing to diminish OC is air so it dries out.

6.1.6 and 6.2.3 What basis are we saying CEW should be considered serious use of force if more than one deployed? Each CEW has 3.6 milliamps. It takes 1000 milliamps to be deadly. The use of multiple CEWs aren't anywhere close to being deadly.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Ryan Albertson**

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, March 24, 2022 1:12:36 PM
Last Modified: Thursday, March 24, 2022 1:17:01 PM
Time Spent: 00:04:25

Page 1

Q1

Please provide feedback for this directive

Noticed that there was a definition of mental health crisis, but there was not one for ...medical fragile. Might make a definition for the latter since there these two conditions can be different.

Liked the proper usage for KIP's not used for the head or throat except in deadly force situations.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name	Robbie
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#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, March 28, 2022 2:26:10 AM
Last Modified: Monday, March 28, 2022 2:28:54 AM
Time Spent: 00:02:44

Page 1

Q1

Please provide feedback for this directive

Clarification is needed for 6.3.2.1

Is only photographs of tags, cartridges and probes required? Or is it photographs of tags, and collect cartridges and probes for evidence?

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, March 28, 2022 9:52:04 PM
Last Modified: Monday, March 28, 2022 9:54:00 PM
Time Spent: 00:01:56

Page 1

Q1

Please provide feedback for this directive

Sounds good overall, but I highly disagree with 2.1. Stating that less lethal force can't be used from a suspect fleeing. Once a suspect takes off fleeing, sorry, but they need to be stopped. We all know if they get away, whatever they did they'll do it again.

Q2

Respondent skipped this question

Contact Information (optional - your name will be visible on PPB's website)

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, April 07, 2022 11:15:03 AM
Last Modified: Thursday, April 07, 2022 11:21:02 AM
Time Spent: 00:05:59

Page 1

Q1

Please provide feedback for this directive

The definition of Drive Stun is unclear. Perhaps include in the definition that "through the terminal" means bringing the device into direct physical contact with the person.

6.1.1 Includes only the preferred target area for front shots but omits the preferred target area for back shots.

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Jackson Oldham**

#8

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Sunday, April 10, 2022 7:15:58 PM
Last Modified: Sunday, April 10, 2022 8:31:47 PM
Time Spent: 01:15:48

Page 1

Q1

Please provide feedback for this directive

I find nothing objectionable to the majority of citizens in this proposal.

I would like to see you add another tool to the arsenal of less than lethal weaponry. I would like to see nets to incapacitate individuals in a standoff when they have no means of sending projectiles at Officers or the public. We as a society use this method to humanely incapacitate animals in distress, we should value human life in the same way. To incapacitate the subject with very minimal chance of harm.

The use of netting, or powder actuated netting will additionally reduce the expenditure of value Bureau assets, and allow the public access to the area in question far more quickly.

I first thought of this method when a mentally ill man in Seattle closed down blocks of downtown for, I think it was 4+ hours, because he was brandishing a sword.

I realize that it will take an extraordinary PR action to get the public approval for this, but the benefits are just too big to ignore.

Thanks, Timlarsen

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Tim Larson**

#9

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, April 20, 2022 4:50:44 PM
Last Modified: Wednesday, April 20, 2022 4:51:27 PM
Time Spent: 00:00:43

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Q1

Please provide feedback for this directive

COMMENTS ON FORCE, MEDICAL AND PROCEDURAL JUSTICE DIRECTIVES, APRIL 2022

To Chief Lovell, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in mid March which focus on force, medical aid and procedural justice < <http://www.portlandoregon.gov/police/59757> >. The Force policy (1010.00) was split up to once again remove "Less Lethal" Weapons (now 1015.00, was 1050.00), after being integrated just five years ago in 2017. Force reporting now has its own policy (910.00). Parts of the Force policy about medical aid were moved into the specific Directive on that topic (630.50). We made comments on the Force policy in January 2021. The procedural justice policy is new.

We note up front that, although we only found it in once place, the Bureau has finally heeded our advice to distinguish between de-escalation prior to using force and lowering the amount of force being used on a person. The latter is now referred to as "reactive de-escalation." However this distinction has not been added to the Definitions section of Directive 1010.00.

We also noticed there are fewer references to weapons as "tools" in these directives, with the exception of the definition of "Less Lethal Weapon" in three policies and one other use in 1015.00. As we have noted before "these items are all designed to kill, harm, wound, or physically coerce people to follow police orders, not items used to open paint cans or build shelters for houseless people."

Unfortunately, the major revisions to 1010.00 almost make the redline version meaningless for purposes of comparison. Entire sections are crossed out but reappear in other places in that Directive, and the parts that were moved to new Directives show no indication where changes were made since those policies are being treated as "new." That said, after laborious line-by-line comparisons, PCW is re-stating many of its previous comments and adding new ones based on significant changes being proposed.

As usual, we ask the Bureau to give different labels to all of the major sections of the Directives, such as the Definitions, Policy and Procedure sections. Our comments refer to the Procedure section unless otherwise noted.

DIRECTIVE 1015.00 LESS LETHAL WEAPONS (previous comments in January 2021 review of 1010.00)

Emphasize Less Lethal is Not "Non Lethal": The Directive includes policies on Less Lethal Weapons, Batons, Conducted Energy Weapons (Tasers), Handheld Chemical Incapacitants (formerly "aerosol restraints"), Kinetic Impact Projectiles (formerly Impact Munitions), and Hobbles. It also includes the use of police dogs ("canine deployment"), though we would think even the police handlers would not like to consider their companion animals as "weapons." The Directive cautions that these weapons "can still result in death or serious injury" (Section 1.3). We again urge the Bureau to carry forward the warning from the definition of "Impact Munition" in Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal" and apply that to this entire policy.

Give Guidance on Appropriate Use: When these weapons were removed from 1010.00 Use of Force, it seems that with the exception of the Canine unit, all descriptions of the approved uses disappeared. There are multiple sections on prohibited uses, but guidance saying what level of resistance is being used by a community member (active/ physical resistance, active aggression, and other terms known to police) is no longer available. This will, we predict, lead to the over-use and misuse of these weapons. We have cut out many of our comments about the levels of force due to this change, but expect that the DOJ and other parties will encourage the PPB to reinsert such language.

Crowd Munition Clarity: After the 2020 protests against police violence, Copwatch asked the Bureau to both hold officers to existing policies and be more restrictive and specific in how weapons are used. Although 1010.00 (current Section 7.1.2, previous Section 3.5.2.2.2) limits the use of impact projectiles unless deadly force is authorized, there is no such restriction in this Directive. The prohibition of using weapons on crowds appears in the section on Taser use (6.2.6) but not the use of Canines (though it is in 1010

1015.00 Directive Feedback (1UR - NEW)

Section 7.1.4), nor of chemical incapacitants (1010 Section 7.1.3).

Legal Use of Taser: We continue to be concerned that there is no guidance reflecting the Ninth Circuit Court of Appeals ruling that Tasers are a serious enough use of force that they can only be used when there is an "active threat." The Directive prohibits the use of any Less Lethal weapon against a person who is merely running away (2.1), but there are no clear guidelines beyond 1010's Section 6.1 which says the weapons are to "manage encounters with threatening or actively resistive persons."

Warning Taser "Shots": We remain concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending police use of force (6.1.2), especially since warning shots from a firearm are prohibited (1010 Section 9.3.1.1). The Directive also still allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (6.2.2-- in the restrictions section), which is not a form of de-escalation. Section 6.1.2 also allows using the Taser's laser sight light as a means of warning, which is similarly unreasonable. We continue to remind the Bureau that "Laser Light Only" was tracked until 2008 and the Auditor and the Community/Police Relations Committee both suggested that practice should be reinstated.

People Who Should Not Be Hit: While this category should be "everyone," the list of persons against whom less-lethal weapons should not be used (Section 2.2) still leaves off the old prohibition on using them on people over the age of 60. Directive 910 Section 1.3.1.11 requires any use against people in restricted categories (people under 15, medically fragile or pregnant) to be investigated as a Category II (high level) Use of Force, regardless of which weapon is used, indicating how serious this force is.

People Who Should Not Be Electrocuted: We stand by our comment that it is commendable (and in line with the Settlement Agreement) that officers avoid using Tasers against persons who seem to be in mental health crisis (Section 6.2.4), but there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use.

Dangers of Chemical Weapons: It's not exactly clear whether "handheld chemical incapacitants" include pepper spray, but we have noted before that pepper spray has been known to cause or contribute to the deaths of numerous people (including Dickie Dow in Portland in 1998). We applaud, however, the PPB changing the requirement to attend to people who've been sprayed with "a Bureau approved solution" rather than water (5.3.2). Anyone who's been at a protest (or been a street medic) will tell you that water can make things worse. That said, we hope the police would ask for permission before spraying anything into a civilian's eyes.

Crowd Control Weapons: Tear gas is not mentioned in the "Less Lethal" Directive procedures, even if just to note that guidance for its use can be found in 1010.00 Section 7.1.5 (and, perhaps, the Crowd Control Directive).

Broad Impact of "Less Lethal" Weapons: The admonition "to minimize exposure to non-targeted persons" (Section 5.1) is a good concept, but meaningless when officers use pepper spray or other chemicals indiscriminately. Along these lines, a previous restriction to only use pepper spray from four feet away or more has still not been reinserted.

Exceptions Make Bad Rules: The prohibition on using chemical weapons on the driver of a vehicle allows such use with "justification" or when there is "no reasonable alternative." This is not a prohibition, then. If the Bureau wishes to retain the exemptions, a clearer list of allowable circumstances should be listed. Along those lines, as previously noted by PCW, Section 3.3 restricts the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized," meaning hitting these areas is not prohibited.

Which Force is More Serious: There are still references in the Taser section about "avoid[ing] a use of a higher level of force" (6.2.4 and 6.2.5). Without a continuum of force or guidance on what weapons can be used when (see "Give Guidance on Appropriate Use") it is not clear what this means. We had a much longer list of concerns in our previous comments, but that list was based on the guidance which has been cut.

Self-Investigation Concern: Section 6.3.2.1 asks the Supervisor to be sure the involved officer gathers evidence of their Taser use; it seems that if there's an investigation into every officer use of force, someone other than the person being investigated should be handling such evidence.

Hoping Omissions Deliberate: PCW is glad that the previous authorization to use something other than a baton as an impact weapon appears to have disappeared from the policy. The removal of the word "unintentional" hitting of a person with projectiles or baton is also appreciated.

CONCLUSION

Portland Copwatch appreciates that all of these Directives are being given a full 30 days for review, but still would like to see review periods extended to allow for groups who only meet once a month to give input during the Bureau's time frame. The Bureau would also benefit from holding public meetings to discuss the intent behind proposed changes and to take questions about community ideas for improvements to policies. We wrote previously: "Frequently when there are references to comments made but not acted upon, the answers are unsatisfactory and dismissive; we should be able to engage in a dialogue to help move the Bureau more toward one that is free from brutality, corruption and racism."

--dan handelman and other members of
Portland Copwatch

Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Portland Copwatch**
