



CITY OF PORTLAND, OREGON



Bureau of Police

1111 S.W. 2nd Avenue • Portland, OR 97204

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Executive Summary Directives 1010.00, Use of Force, and 1015.00, Less Lethal Weapons and Tools

Introduction

The Bureau reviews all force related directives on an annual basis, in compliance with the settlement agreement between the City of Portland and the United States Department of Justice. In this case, the Bureau began its review of these directives in October of 2023, posting them for their first Universal Review in November of 2023, and their second Universal Review in July of 2024.

The Bureau substantially revised the directives during the last review cycle in August of 2022, and so this review did not include any major changes. The Bureau added several definitions to provide additional clarity in the directive. Other small changes reflect changes in state law. The remaining changes largely reflect the intent of the force directive which is to recognize that decision making around use of force is necessarily highly fact dependent and attempts to reduce those decisions to black and white or stair stepped models are ineffective.

Public Comments

These directives collectively received a total of three comments in their First Universal review, and two comments during its Second Universal review.

Several of the comments were from the same commenter and provided extensive feedback. Because of the length of the comments, and the fact that their feedback centered around a common theme, we will address the comments as a whole rather than addressing the individual points. Please see the attached documents for the specific comments in question.

The commenter raised a variety of issues centered on the theme of providing more specific rules and guidance around the use of force, and that force should be more clearly delineated along a “force continuum.” The commenter was concerned that the lack of these bright lines in policy would mean that officers would not have sufficient guidance or might escape accountability when using force. There are benefits to the creation of simple bright line rules, in that they create clearer lines for decision makers in the accountability process, however these bright lines are often at odds with the highly fact specific nature of police encounters, particularly those surrounding use of force. It is for this reason that current industry best practice has been to move away from a strict “force continuum” model, to a model based on objective reasonableness under the totality of the circumstances.

The commenter highlighted the new definition of “disengagement” in Directive 1010.00, Use of Force, specifically noting that officers should consider the government interest against whether



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walking away poses harm to the community. The “risk-benefit” assessment described in Section 1.1.3. does just that. The “risks associated with the call” does include the safety risk that a person poses to the community if officers decide not to intervene. That factor is an important element in the decision-making process when considering disengagement.

Finally, the commenter noted changes to the definitions of “handheld chemical incapacitants” and “tear gas” in Directive 1015.00, Less Lethal Weapons and Tools. The Bureau revised these definitions to mirror the statutory definitions of the terms. However, the statutory definitions somewhat conflate the two items, from chemical makeup perspective, so the Bureau added guidance to the definitions to clarify how Bureau-issued weapons and tools are categorized, based on the state definitions. Appropriate classification or categorization is essential, given the statutory restrictions for handheld chemical incapacitants and tear gas for crowd management.

The Bureau’s Revised/New Policy

The Bureau made several specific changes to definitions in both policies. In Directive 1010.00, Use of Force, definitions for both disengagement and warnings were added. These definitions should help members and the public better understand their use. In Directive 1015.00, Less Lethal Weapons and Tools, the definition of Chemical Incapacitants and Tear Gas were both modified to clarify the distinction between the two categories as well as to reflect the changes made to state law.

The Bureau made additional changes to specific rules around weapons systems in Directive 1015.00. Specific references to target areas were removed from the section of Kinetic Impact Projectiles (KIPs). This reflects the fact that different weapons systems have different target areas, and different situations may call for different targeting. However, members must still act in accordance with their training as it pertains KIP deployment.

Other changes in 1015.00 simplify and clarify expectations around less lethal weapons and tool use. The Bureau modified a previous total prohibition on the use of Conducted Electrical Weapons (CEWs) in flammable environments to a requirement that they be used in those circumstances only if deadly force is justified. This acknowledges that such an action has a high risk of serious injury or death, but still may be preferable to using another type of deadly force that carries an even higher risk of death, such as a firearm.

The overall goal of the changes was, as previously stated, to acknowledge the reality that use of force decision making is highly situational and that any attempt to consider all such relevant circumstances in policy is both unrealistic and likely to result in a lengthy and complicated policy that is not readily understood or applied.

The Bureau welcomes further feedback on this policy during its next review.

The directive goes into effect on September 11, 2024. Published on August 12, 2024.

1010.00, Use of Force

Refer:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- ORS 161.015, General Definitions
- ORS 131.615, Stopping of Persons
- ORS 161.190 – 161.275, Justification
- 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, Medical Aid
- DIR 0631.70, Investigation of Animal Problems
- DIR 0635.10, Portland Police Bureau Response to Public Order Events
- 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 vehicle(s) 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.
- De Minimis Force: Minimally intrusive application of a restraint (e.g., handcuffs or a hobble), or the use of an empty hand coercive technique to separate, guide and/or gain control of a subject. De Minimis Force is not readily capable of causing or reasonably likely to cause physical injury or persistent pain.
- Disengagement: The intentional decision, based on the totality of the circumstances, to discontinue contact with a person the member could lawfully take into custody.
- 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, which may include, but is 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; ordering dispersals.
- 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: An officer’s verbal order intended to obtain compliance and convey to the recipient that failure to comply with the order may result in an officer’s use of force.
- 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 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.
 - 2.3.3. Members must justify each application of force. When feasible, members shall re-evaluate the need for continued force in between application of force.
 - 2.3.4. When a member uses force, they shall reduce the amount of force they use as the person's resistance decreases.
 - 2.3.5. When a member uses force, they should be supported by at least one member capable of providing immediate cover, if feasible.
 - 2.3.6. 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 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.
 - 4.3. 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 for lack of warnings is necessary for vehicle intervention techniques or De Minimis 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. 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, Portland Police Bureau Response to Public Order Events, 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, 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: 9/11/2024
- Next Review: 9/11/2026

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Refer:

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- ~~ORS 131.615, Stopping of Persons~~
- ~~ORS 161.195, “190 – 161.275, Justification” described~~
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- De-escalation: A deliberate attempt to prevent or reduce the amount of force necessary to safely and effectively resolve confrontations.
- De Minimis Force: Minimally intrusive application of a restraint (e.g., handcuffs or a hobble), or the use of an empty hand coercive technique to separate, guide and/or gain control of a subject. De Minimis Force is not readily capable of causing or reasonably likely to cause physical injury or persistent pain.
- Disengagement: The intentional decision, based on the totality of the circumstances, to discontinue contact with a person the member could lawfully take into custody.
- 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, which may 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; ordering dispersals.

- **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: An officer's verbal order intended to obtain compliance and convey to the recipient that failure to comply with the order may result in an officer's use of force.**
- **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 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.
- 2.3.3. Members must justify each application of force. When feasible, members shall re-evaluate the need for continued force in between application of force.
- 2.3.4. When a member uses force, they shall reduce the amount of force they use as the person's resistance decreases.
- 2.3.5. When a member uses force, they should be supported by at least one member capable of providing immediate cover, if feasible.

- 2.3.6. 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 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.
 - 4.3. 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 for lack of warnings is necessary for vehicle intervention techniques or Category IV forceDe Minimis 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~~Portland~~
Police Bureau Response to Public Order Events, 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-~~u~~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.

#1

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1010.00 Directive Feedback (1UR)

Q1

Please provide feedback for this directive

COMMENTS ON FORCE, DOMESTIC VIOLENCE AND LGBTQ+ DIRECTIVES, DECEMBER 2023

To Chief Day, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, Mayor/Police Commissioner Wheeler, US Dept. of Justice, Citizen Review Committee, Training Advisory Council and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in December which focus on Force, Domestic Violence and the LGBTQ+ community (<https://www.portland.gov/police/directives-overview>). We are not commenting on Directive 660.10 on Property and Evidence.

Printing out just the redline versions (of the items up for second review) and existing documents (for those in first review), we generated 72 pages, which is a lot to process for such important policies. The Bureau should consider extending timelines for more complex policies and/or spacing out their publication.

While our comments are below on each individual document, we are going to say up front that the arbitrary change of releasing the names of officers involved in deadly force, which is still listed as 24 hours in Directive 1010.10 but was superseded by an Executive order, should be rescinded and restored to its existing one-day timeline. There has been much criticism of the fifteen day delay policy in the community and in the media, and as we wrote in an email to Chief Day on December 8, is not being done by other area agencies.

As we have done many times, we ask that the Bureau 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 1010.00 USE OF FORCE (previous comments March 2022)

De-Escalation is Using Not Less Force or Making Threats: PCW previously expressed appreciation that the section on lowering force used on a person once the officers begin using violence (1.2) is labeled "Reactive De-Escalation." We asked to ensure that officers do not continue to describe moving from using a Taser to using pepper spray, for instance, as "de-escalation." However, as previously noted, there is no definition of "Reactive De-Escalation" in the Definitions section. We also noted that Section 1.1.2.1.5 implies that making threats ("warnings") is a form of de-escalation, which it is not. We also are concerned that the Directive implies officers can skip past de-escalation and go right to violence, with the phrase "de-escalation does not always require members to delay reasonable action" (1.3).

Follow DOJ Agreement, Limit Force Use: Several times now, we have 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 US DOJ Settlement Agreement, which calls for language saying "without resorting to force or [using] the least amount of force" (paragraphs 66 a&b). We ask the Bureau once again to change the phrase so it matches the Agreement. It's troubling that the DOJ has not yet echoed this request. There is similar language in Policy Section 3 which advises police to realize their own actions could escalate a situation, but then states that escalation "may influence the necessity for force." We address whether force is necessary next.

Violence is Not the Answer: 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. Instead of "minimizing the need to use force," the policy could just say "while minimizing the use of force." The word "need" was also added in Policy Section 2 in 2022; again, the language should be clear that using force is a decision.

Clarify Disengagement: Section 1.1.3 helps explain the difference between disengagement and de-escalation, but requires that the

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benefits of disengagement "clearly" outweigh the risks, which is subjective. We again recommend the text: "it is more likely than not that disengagement provides more benefits than risks." Such language is used when officers determine if there is reasonable suspicion to stop a person for criminal activity.

Give and Take: In the 2022 draft, the Bureau proposed adding the word "proportional" to the list of words describing what force can be used (in Section 2.1.3), but for some reason that is not in the current version.

"Boxing In" Shouldn't Require Touching: As we noted in the Directive on Vehicle Interventions (and several times for 1010.00), the Definition of "boxing in" requires an officer's car to make contact with the suspect's vehicle to meet this tactic's definition. Perhaps officers could park close to a vehicle without making contact. Since there are currently two types of box-ins (dynamic and static), maybe a third one can be added.

In our comments on this Directive in 2014, 2015, 2017, 2018, 2021 and 2022 we asked the Bureau to make these other 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 can be considered assault on an officer, any unsolicited touching of a civilian by a police officer should be considered 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 the Directive on Satisfactory Performance (315.30). There is no substantive reference to 315.30 in 1010.00, meaning the context of the other Directive is lost when reading the Force policy.

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 9.4.3.4.2 (about entering a car that is readily able to be driven). The Directive should list specific examples of acceptable deviations.

Step Forward on Warnings: We previously expressed appreciation that in the section on warnings, the Bureau inserted the caution 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 pointing of a firearm, which is a Category IV use of force, 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" (2.1.3).

Exceptions for Choking the Life Out of a Person: Choke holds are now prohibited by the Directive (not just the "carotid artery hold")... but they are still permitted if the officer would otherwise be allowed to use deadly force (Section 9.4.2). The community has delegated its desire for safety to people who may choke another person to death. Especially in a post-George Floyd world, the Bureau should re-consider this loophole.

Limiting Use of "Hard Objects": The Definition of deadly force includes a "strike to the head, neck or throat with a hard object." We are

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still opposed to the lack of these objects being specifically prohibited in the Directive. As noted previously, the Compliance Officer called out the Bureau (and the Independent Police Review) for not investigating as deadly force an officer at a protest who deliberately hit someone in the head with a baton (which led to a criminal indictment, and ultimately the use of restorative justice).

Shooting at Vehicles: In previous comments, we 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 9.4.3. 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 current version 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 a 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 9.4.3.3.

Violence on Protestors is Also Violence: Crowd Control Prohibitions: Because the Bureau rewrote its policy on "Public Order Events" (previously known by the clearer name "Crowd Management/Crowd Control"), the previous restrictions against the use of Tasers, police dogs, handheld chemical incapacitants and impact projectiles are gone. The impact projectiles were allowed "if deadly force is authorized," per the old language. Similarly, the ban on the use of tear gas reflecting state law was also removed from 1010.00.

Animals Have Rights Too: Our previous concerns about the Directive allowing deadly force against "vicious or aggressive animals" who interfere with safety or "the execution of a lawful objective" are also moot now that the City has agreed with the DOJ that violence against animals is not violence. (See our comments on Directive 631.70 from May 2022.) We disagree and urge the Bureau to cover such police use of force in this Use of Force Directive.

Language Change Appreciated: In our previous comments we asked that the Bureau not use the term "commit suicide" as it implies a crime. The language in the Directive now uses the term "attempt suicide." Thank you.

CONCLUSION

As noted above, reviewing such a large amount of material is a huge lift, especially for volunteer organizations like ours. Advisory bodies which previously expressed interest in the Directives Review process did not discuss these crucial policies as the deadline of December 15 was approaching. We continue to suggest that the PPB bring the policies to the appropriate advisory boards over a month before the comment deadline to allow them, and the public attending their meetings, time to prepare meaningful feedback.

Thank you for the opportunity to comment

--dan handelman and other members of
Portland Copwatch

Q2

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

Name

Portland Copwatch

#2

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Q1

Please provide feedback for this directive

This entire directive is very well thought out and thorough. It encompasses everything I would hope would be considered. The issue is that it is hard when in the heat of the moment to recall all points. Often times I would think there would not be enough time to think through this all. However if it is enforced and practiced enough it could become second nature. Stay safe!

Q2

Respondent skipped this question

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

#1

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Q1

Please provide feedback for this directive

COMMENTS ON FORCE, CROWD AND "LESS LETHAL" DIRECTIVES, JULY/AUGUST 2024

To Chief Day, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Independent Court Monitor Team, Portland Committee on Community Engaged Policing, Mayor/Police Commissioner Wheeler, US Dept. of Justice, Citizen Review Committee, Training Advisory Council and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in July which focus on Force, Crowd Control and "Less Lethal" weapons (<https://www.portland.gov/police/directives-overview>). As we wrote in the comments on Directive 910 on Force Reporting, it is unusual that these were posted off of the standard schedule (of the 1st/15th of the month) and that the Crowd policy was not sent out in the automated email to those interested in the Directives project. Changes we suggested based on longstanding community concerns were not made.

While a few useful changes are being proposed, overall these three policies are flawed in continuing to give police too much leeway to use force, enabling the PPB's radical change to remove hobbling (hog-tying), forced handcuffing and "force against resistance" from mandatory force reporting. The Bureau's long explanation for the change, which includes the video in which police can be seen manhandling an apparently houseless person, is now online at <https://www.portland.gov/police/news/2024/7/23/proposal-revise-category-iv-non-deadly-force-reporting-investigation-and> .*

In the interest of brevity, we've tried to summarize those comments we have made previously with no action from the Bureau, you can refer to our previous comments which were attached to the draft policies for details.**

As we have done before, we strongly suggest that the Bureau 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 1010.00 USE OF FORCE (previous comments December 2023)

__New/Updated Comments

De Minimis= Da Mickey Mouse: As we wrote in the comments on Directive 910.00, if you are the person who has force applied to you by a police officer, you do not feel it was "minimally intrusive" and, if the officer were another civilian, could press charges for harassment or assault. Thus, we object to the new Definition for De Minimis, and as a group which promotes third-party recording of police, strongly disagree that reviewing body camera footage will provide sufficient evidence about what led up to and happened during officer use of force.

Disengagement Partially Clarified: A Definition has been added for the term "disengagement" which is "the intentional decision, based on the totality of the circumstances, to discontinue contact with a person the member could lawfully take into custody." Fair enough, though arguably that decision could also be made if the officer were just able to detain or cite a person without actually taking them into custody. However, we continue to think the language in Section 1.1.3 is too subjective in requiring that the "benefits [of] police intervention are 'clearly' outweighed by the risks associated with the call." It might not be the risk factor that prompts disengagement, but rather weighing the governmental interest and realizing that walking away will not pose harm to the community. For instance, if the officers know they can catch up to a person later, they can disengage. Had officers made that decision when they confronted Kendra James in 2003, she would likely still be alive.

Warnings Are Threats, Not De-Escalation: We noted previously that Section 1.1.2.1.5 implies that making threats ("warnings") is a form of de-escalation, which it is not. The new Definition of Warnings makes that clear by saying a warning is "an officer's verbal order

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intended to obtain compliance and convey to the recipient that failure to comply with the order may result in an officer's use of force." Try that in an argument with a family member sometime and see how well it calms down the situation.

More Warnings, Same Variances: Section 5.1.3.1 continues to exclude warning requirements for Vehicle Intervention and now, De Minimis force. This means that pointing of a firearm and other previous Category IV force that was not minimized now do require warnings, so, thank you at least for that.

Not Sure About This One: The Bureau is proposing to cut this sentence from the introduction to the Less Lethal Weapons Section (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." We're not sure how we feel about this or why the change is being proposed.

Previous Comments, Summarized:

Define and Explain De-Escalation Better: The Bureau agrees that lowering force on a person after police already used violence is one kind of de-escalation ("Reactive," Section 1.3), and that the other is using words and non-verbal cues to avoid the use of force ("Proactive," Section 1.1). Therefore these terms should both be in the Definitions section and used throughout for clarity.

Don't Ditch De-Escalation: We are still concerned the Directive suggests officers skip de-escalation and go right to violence (Section 1.3).

Limit Force As the City Agreed: Policy Section 5 still does not match the language from the US Department of Justice Settlement Agreement about officers not using force or using the least amount of force. Paragraph 66, which contains the language we're referencing, is still under review.

Force Isn't Necessary: Policy Section 3 wisely advises police to realize their own actions could escalate a situation, but then states that escalation "may influence the necessity for force." Similarly, Policy Sections 2 and 5 talk about the "need" to use force and should be rewritten to underscore that it is a choice to use violence.

Shock and Awe Not Needed for Civilian Law Enforcement: We keep suggesting that the force officers use should be described as "proportional" to any used by community members to avoid police over-reacting (Section 2.1.3).

Can't Cops "Box In" a Car Without Contact?: We noted that there are two kinds of "Boxing in" listed in the Definitions, dynamic and static, but both require officers to touch their patrol cars to the community member's. We suggest a no-contact version as a third option.

Clearer Definition of Force: The words "physical or mechanical intervention" used to be part of Definition of Use of Force (in 2014) and should be added again.

Bad Touch: As noted in our discussion of De Minimis force, the idea that "control holds and handcuffing without resistance do not constitute force" violates community norms on when it's ok to put hands on another person and should at least be considered intrusive by police, if not reportable force.

Cross-Reference Performance: Analyzing force confrontations is in the Directive on Satisfactory Performance (315.30) but should be summarized here.

Close Large Loopholes: Officers can use force that is not Bureau-approved if they have "substantial justification" (Member Responsibilities, Section 2.3.1, and Moving Vehicles/Deadly Force, Section 9.4.3.4.2). The Directive should list specific examples.

Reasons People May Not Be Complying: We still urge the Bureau to include mental health crisis and intoxication impairment be added as possible reasons a person does not respond to warnings in Section 5.1 (similar to Section 2.2.1.2).

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More Graham Standards: In addition to the three aspects of the "Graham Standard" listed in Section 2.1.2, the Directive should also list the suspect's impact on the public, time, and available resources.

This is No Choke: Section 9.4.2 should not allow officers to use choke holds as a form of deadly force, following the George Floyd incident and uprising... not to mention the death of Tony Stevenson in Portland in 1985.

Underscore Seriousness of Blunt Force Trauma: PCW believes that striking people in the head, neck or throat with a hard object (in Definition of Deadly Force) should be prohibited. For example, Officer Corey Budworth.

Narrow Circumstances to Shoot at Vehicles: Previous versions of this Directive said a threat had to come from something other than the vehicle itself for officers to shoot at a moving car. If the PPB wants to keep Section 9.4.3 intact, the caution that if you kill the driver of a moving car, it can become a danger in of itself (9.4.3.3) should be moved to the top.

Be Clear about Violence at Protests: The Directive now refers officers to Directive 635.10 on Public Order Events / Crowd Control instead of including specific restrictions. Because 635.10 depends on 1010.00, we suggest listing those restrictions here as well.

Poor Doggies: We still disagree with the PPB and the US DOJ for removing violence against non-human animals from this policy.

CONCLUSION

This entire process continues to be frustrating, as discussions that affect the community are happening behind closed doors with the US DOJ and the Police Associations. Again, we appreciate that changes are sometimes being made which align with the comments made by Portland Copwatch, but they are few and far between. We again suggest that the Bureau actively visit the appropriate advisory body when certain topics come up. The Behavioral Health Unit Advisory Committee gets to comment on the Mental Health Directives, but they meet behind closed doors-- and their comments are not included in the Universal Review packets. The Training Advisory Council should hear about training policies, and the Citizen Review Committee and/or Portland Committee on Community Engaged Policing should hear about policies like these, which are of great concern to people who feel they've been mistreated by the police. Dialogue can do more to improve community police relations than 1000 block parties.

Thank you,
--dan handelman, and other members of
Portland Copwatch

*- PCW previously believed this to be a Black woman, based on the poor quality of the video at the Training Advisory Council meeting. The online video seems to show the person is white.

**- except for the crowd policy, where our final eight comments were cut off by the online form and the Bureau did not incorporate them from the email version we sent in.

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
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- DIR 0640.02, Photography and Digital Imaging
- DIR 0850.20, Mental Health Crisis Response
- DIR 0900.00, General Reporting Guidelines
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- 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.
- **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.
 - **As used in this directive, Bureau Issued Oleoresin Capsicum spray (e.g. Sabre Red) is considered a Handheld Chemical Incapacitant.**
- **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.
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- **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.
 - **As used in this directive, Bureau-issued launched and tossed munitions that disperse CS, CN, or OC over an area (e.g. Defense Technology Triple Chaser, or OC 40MM Skat Shell) or impact munitions with a chemical payload (e.g. FN303 PAVA) are considered Tear Gas and are subject to the same restrictions.**

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.
 - 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. Handheld Chemical Incapacitants.
 - 4.1. When using handheld chemical incapacitants, members shall attempt to minimize exposure to non-target persons.

- 4.2. Members shall not use handheld 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, 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 0635.10, Portland Police Bureau Response to Public Order Events, 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 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, Medical Aid.
6. Flash Sound Diversion/Distracton 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. When feasible members shall attempt to gain physical control of the subject 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. 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, unless deadly force is justified.

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

- 7.3.1. A member shall photograph 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.

History:

- Established: 8/22/2022
- Effective: 9/11/2024
- Next Review: 9/11/2026

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- DIR 0635.10, ~~Crowd Management/Crowd Control~~ [Portland Police Bureau Response to Public Order Events](#)
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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. Handheld 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~~0635.10, Portland Police Bureau Response to Public Order Events, 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/Distracton 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~~When feasible members shall ~~make every reasonable effort to attempt handcuffing to gain physical control of the subject~~ 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.

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

7.1.7. 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, unless deadly force is justified.

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.

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1015.00 Directive Feedback (1UR)

Q1

Please provide feedback for this directive

COMMENTS ON FORCE, DOMESTIC VIOLENCE AND LGBTQ+ DIRECTIVES, DECEMBER 2023

To Chief Day, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, Mayor/Police Commissioner Wheeler, US Dept. of Justice, Citizen Review Committee, Training Advisory Council and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in December which focus on Force, Domestic Violence and the LGBTQ+ community (<https://www.portland.gov/police/directives-overview>). We are not commenting on Directive 660.10 on Property and Evidence.

Printing out just the redline versions (of the items up for second review) and existing documents (for those in first review), we generated 72 pages, which is a lot to process for such important policies. The Bureau should consider extending timelines for more complex policies and/or spacing out their publication.

While our comments are below on each individual document, we are going to say up front that the arbitrary change of releasing the names of officers involved in deadly force, which is still listed as 24 hours in Directive 1010.10 but was superseded by an Executive order, should be rescinded and restored to its existing one-day timeline. There has been much criticism of the fifteen day delay policy in the community and in the media, and as we wrote in an email to Chief Day on December 8, is not being done by other area agencies.

As we have done many times, we ask that the Bureau 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 1015.00 LESS LETHAL WEAPONS (previous comments in June 2022)

Clarity Builds Good Policy: The Force Directive (1010.00) contains the restrictions on Less Lethal Weapons, but they are not included in this policy... which is about Less Lethal Weapons. Without the prohibitions, there is no restriction on the use of Less Lethal weapons, for instance, against a person who is merely running away (previous Section 2.1), or on the use of Tasers or police dogs at protests. We had also suggested making clear when such weapons are allowed to be used, but such clarity is not in the Directive. Officers and the public should not have to cross-reference the different documents to understand the limits. Also as we noted earlier, 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.

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 7.2.4), but there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use.

Timely Treatment: A previous requirement for police officers to treat people who they harmed was previously cut, which makes both practical and political sense. However, we continue to think the weapons policy should guarantee officers allow medics to tend to people suffering from chemicals and other weapons.

Mostly Clarified: We previously wrote that what is now Section 7.3 asked Supervisors to let officers gather evidence of their own Taser use; the current version gives the Supervisor the responsibility ensure that an officer gather the photographic evidence. That means it's not necessarily the same cop, but doesn't allow for non-police investigators to gather on scene evidence of police use of force.

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Emphasize Less Lethal is Not "Non Lethal": The Directive includes policies on Less Lethal Weapons, Flash Sound Diversion/Distracted Devices, Batons, Conducted Energy Weapons (Tasers), Handheld/Launched Chemical Incapacitants (formerly "aerosol restraints"), Tear Gas, Kinetic Impact Projectiles (formerly Impact Munitions), and Hobbles. It also includes the use of police dogs ("canine use"), 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. We are also concerned that the definition of Kinetic Impact Projectiles uses the term "non-lethal" though it's not been proven that any of the PPB's weapons are incapable of causing death.

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 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 (7.1.3), especially since warning shots from a firearm are prohibited (1010 Section 9.4.1.1). The Directive also still allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (7.2.2-- in the restrictions section), which is not a form of de-escalation. Section 7.1.3 also allows using the Taser's laser sight light as a means of warning, which is similarly unreasonable. We continue to remind the Bureau 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.

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" (Section 4.2) 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" (7.2.4 and 7.2.5). 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

As noted above, reviewing such a large amount of material is a huge lift, especially for volunteer organizations like ours. Advisory bodies which previously expressed interest in the Directives Review process did not discuss these crucial policies as the deadline of December 15 was approaching. We continue to suggest that the PPB bring the policies to the appropriate advisory boards over a month before the comment deadline to allow them, and the public attending their meetings, time to prepare meaningful feedback.

Thank you for the opportunity to comment

--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

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Q1

Please provide feedback for this directive

COMMENTS ON FORCE, CROWD AND "LESS LETHAL" DIRECTIVES, JULY/AUGUST 2024

To Chief Day, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Independent Court Monitor Team, Portland Committee on Community Engaged Policing, Mayor/Police Commissioner Wheeler, US Dept. of Justice, Citizen Review Committee, Training Advisory Council and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the Directives posted for review in July which focus on Force, Crowd Control and "Less Lethal" weapons (<https://www.portland.gov/police/directives-overview>). As we wrote in the comments on Directive 910 on Force Reporting, it is unusual that these were posted off of the standard schedule (of the 1st/15th of the month) and that the Crowd policy was not sent out in the automated email to those interested in the Directives project. Changes we suggested based on longstanding community concerns were not made.

While a few useful changes are being proposed, overall these three policies are flawed in continuing to give police too much leeway to use force, enabling the PPB's radical change to remove hobbling (hog-tying), forced handcuffing and "force against resistance" from mandatory force reporting. The Bureau's long explanation for the change, which includes the video in which police can be seen manhandling an apparently houseless person, is now online at <https://www.portland.gov/police/news/2024/7/23/proposal-revise-category-iv-non-deadly-force-reporting-investigation-and> .*

In the interest of brevity, we've tried to summarize those comments we have made previously with no action from the Bureau, you can refer to our previous comments which were attached to the draft policies for details.**

As we have done before, we strongly suggest that the Bureau 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 1015.00 LESS LETHAL WEAPONS (previous comments in December 2023)

__New/Updated Comments:

Failure to Launch: We believe that some officers, particularly those with the Special Emergency Reaction (should be Response) Team, use chemical weapons fired from firearm-type launchers. There is a lot of new language about "handheld" weapons and the word "launched" is crossed out in some places but not others. Both terms are used in the Definition for Tear Gas. Please clarify.

Been Watching Too Much "Jaws": Section 7.1.6 prohibiting Taser use on people near or doused in flammables now has a clause saying the prohibition doesn't count if deadly force is justified. Someone is watching too many action movies where they blow up the antagonist. Think about the public relations if you deliberately burn someone to death.

Not Sure Why But We Like It: Section 7.1.6 which suggested having "immediate cover" (ie someone with a gun) when officers use Tasers has been cut. PCW is not unhappy about this change. And yes, that's a double negative.

__Previous Comments, Summarized:

When It's OK, or Not, to Use Less Lethals. The Force Directive (1010.00) contains restrictions on Less Lethal Weapons, and those should be repeated here. There also should be more clarity on when the weapons are allowed to be used. Officers and the public should not have to cross-reference multiple documents to understand the limits.

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For Instance, Older Persons: A previous list of people who should not have "less lethals" used on them should be put back in; one such type was people over the age of 60.

Or People with Epilepsy: Section 7.2.4 does say officers should avoid using Tasers against persons who seem to be in mental health crisis, but should add, for instance, people who may have epilepsy or other vulnerable conditions.

Get Medical, STAT!: PCW continues to think the weapons policy should guarantee officers allow medics to tend to people suffering from chemicals and other weapons, similar to the requirement in 635.10 Section 10.3.2.

Columbo, You're Too Close to This Case, You Should Sit This One Out: Section 7.3 gives Supervisors the responsibility to ensure that an officer gathers photographic evidence; it should be clear it can be a non-police investigator and must not be the same officer who used force.

Are Sentient Animals "Weapons" or "Tools"?: PCW continues to express concern that the Less Lethal Weapons and Tools Directive includes the use of police dogs. Do the police handlers consider their companion animals as "weapons" or "tools"?

Less-Lethal but Not Non-Lethal: Section 1.3 cautions that these weapons "can still result in death or serious injury." The Bureau should carry forward to the entire Directive the warning from the Definition of "Impact Munition" in Directives 1020 & 1021, which says such weapons are "not to be considered non-lethal." On that note, the current Definition of Kinetic Impact Projectiles uses the term "non-lethal."

Clarify Restrictions on Crowd Use: The Directive should include any restrictions on Less-Lethal weapons use for crowd control to avoid cross-referencing confusion.

Follow the Law: The Ninth Circuit Court of Appeals ruled-- many years ago now-- that Tasers are a serious enough use of force that they can only be used when there is an "active threat." The Directive does not reflect this limitation.

Warning, Danger, Danger: Officers should not be allowed to use "arcing" (creating an electrical "zap" in the air with the Taser) or to activate the laser light to warn a suspect (7.1.3), especially since warning shots from a firearm are prohibited (1010 Section 9.4.1.1). Section 7.2.2 also, counter to de-escalation concepts, allows a Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation."

Focus, People: Section 4.1 says "to minimize exposure to non-targeted persons," which is only meaningful if paired with a prohibition on indiscriminate use (see our comments on 635.10).

More Clarity on Exceptions: Section 4.2 supposedly prohibits using chemical weapons on the driver of a vehicle, but allows such use with "justification" or when there is "no reasonable alternative." If the Bureau wishes to retain exemptions, please list allowable circumstances. Similarly, 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," another loophole.

Wherefore Art Thou Continuum of Force? There are references in the Taser section about "avoid[ing] a use of a higher level of force" (7.2.4 and 7.2.5), but the Bureau was very deliberate in eliminating their continuum of force, so how does an officer (or community member) know what levels of force are higher than others?

CONCLUSION

This entire process continues to be frustrating, as discussions that affect the community are happening behind closed doors with the US DOJ and the Police Associations. Again, we appreciate that changes are sometimes being made which align with the comments made by Portland Copwatch. but they are few and far between. We again suggest that the Bureau actively visit the appropriate

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advisory body when certain topics come up. The Behavioral Health Unit Advisory Committee gets to comment on the Mental Health Directives, but they meet behind closed doors-- and their comments are not included in the Universal Review packets. The Training Advisory Council should hear about training policies, and the Citizen Review Committee and/or Portland Committee on Community Engaged Policing should hear about policies like these, which are of great concern to people who feel they've been mistreated by the police. Dialogue can do more to improve community police relations than 1000 block parties.

Thank you,
--dan handelman, and other members of
Portland Copwatch

*- PCW previously believed this to be a Black woman, based on the poor quality of the video at the Training Advisory Council meeting. The online video seems to show the person is white.

**- except for the crowd policy, where our final eight comments were cut off by the online form and the Bureau did not incorporate them from the email version we sent in.

Q2

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

Name

Portland Copwatch
