



## **EXECUTIVE ORDER**

Date: December 13, 2013

TO: All Bureau Members


RE: DIR 1010.00 Use of Force

ACTION: This directive has been significantly revised. Please read the attached directive carefully.

### **1010.00 USE OF FORCE**

Refer: ORS 161.015 (7) Physical Injury, defined  
ORS 161.015(1) Dangerous Weapon, defined  
ORS 161.015(2) Deadly Weapon, defined  
ORS 161.015(3) Deadly Physical Force, defined  
ORS 161.205 - 161.265 Use of Physical Force  
DIR 315.30 Satisfactory Performance  
DIR 341.00 Discipline Process  
DIR 630.45 Emergency Medical Custody Transports  
DIR 630.50 Emergency Medical Aid  
DIR 631.70 Investigation of Animal Problems  
DIR 910.00 Field Reporting Handbook Instructions  
DIR 940.00 After Action Reports  
DIR 1010.10 Post Deadly Force Procedures  
DIR 1030.00 Baton Use  
DIR 1040.00 Aerosol Restraints  
DIR 1050.00 Less Lethal Weapons and Munitions  
DIR 1051.00 Electronic Control Weapons Systems

#### **1. STATEMENT OF PURPOSE**

- 1.1** The purpose of this directive is to establish use of force guidelines for members as well as defining the categories of force used by police officers in the performance of their duties.
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## **2. DIRECTIVE SPECIFIC DEFINITIONS**

- 2.1. DEADLY PHYSICAL FORCE:** As defined in ORS 161.015(3), physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury. Use of deadly weapons, as defined in ORS 161.015(2), and vehicle barricades, vehicle ramming and the carotid hold constitutes deadly force. The use of dangerous weapons, as defined in ORS 161.015, which may include flashlights, batons, body parts and other weapons constitutes deadly force when the use is readily capable of causing death or serious physical injury.
- 2.2. CONSTITUTIONAL FORCE STANDARD:** Under *Graham v. Connor*, and subsequent cases, the federal courts have established that government use of force must comply with the “reasonableness” requirement of the Fourth Amendment. Under this standard, police officers must choose from the reasonable force options at a scene. The reasonableness of a particular use of force is to be judged from the perspective of a reasonable officer on the scene, without regard to the officer’s underlying intent or motivation. The determination of reasonableness must be based on the totality of the circumstances and must include a consideration that officers are often forced to make split second decisions in circumstances which are tense, uncertain, and rapidly evolving. The determination of reasonableness is not based on the 20/20 vision of hindsight.
- 2.3. FORCE:** Any physical or mechanical intervention used by a member to defend, control, overpower, restrain or overcome resistance of an individual, and also includes the pointing of a firearm and the use of a hobble. Escort holds and un-resisted handcuffing do not constitute force unless physical or mechanical intervention is applied against resistance.
- 2.4. INVOLVED MEMBER:** A member who is involved in the application of force or directs another to use force.
- 2.5. IMMEDIATE THREAT:** a threat that currently exists.
- 2.6. LESS LETHAL FORCE:** a force application that is not intended or expected to cause death or serious physical injury and that is commonly understood to have less potential for causing death or serious physical injury than conventional, more lethal police tactics. Nonetheless, use of less lethal force can result in death or serious physical injury.

**2.7. PHYSICAL INJURY:** As defined in ORS 161.015 (7), the impairment of physical condition or substantial pain.

**2.8. REASONABLE FORCE:** Force that satisfies the constitutional standard as objectively reasonable under the totality of the circumstances.

**2.9. 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.

**2.10. SERIOUS USE OF FORCE:** As defined in DIR 940.00, force that requires a supervisor to contact the Professional Standards Division in accordance with DIR 940.00.

### **3. PURPOSES FOR WHICH MEMBERS MAY USE THE FORCE AUTHORIZED BY THIS POLICY**

**3.1.** Prevent or terminate the commission or attempted commission of an offense.

**3.2.** Lawfully take a person into custody, make an arrest, or prevent an escape.

**3.3.** Prevent a suicide or serious self-inflicted injury.

**3.4.** Defend the member or other person from the use of physical force.

**3.5.** Accomplish some official purpose or duty that is authorized by law or judicial decree.

### **4. POLICY**

**4.1.** This Directive adopts the constitutional standard for the use of force established by the United States Supreme Court in *Graham v. Connor* and subsequent case law as an outside limit on the amount of force that members may use. In this Directive, the Portland Police Bureau prohibits force that is not objectively reasonable under the constitutional standard.

**4.2.** In an event that involves both confrontation management and an application of force, members' force use is governed by Policy 1010.00 and members' confrontation management is governed by the Bureau's Satisfactory Performance Directive (DIR

315.30.1.3). Members must meet the requirements of both policies. Compliance with one policy is not determinative of compliance with the other policy.

- 4.3. The Portland Police Bureau respects the value and sanctity of human life and recognizes the inherent dignity of every person. The Police Bureau understands that investing officers with the authority to use force to protect the public welfare creates a solemn obligation to guide members as they balance the important social and individual interests involved.
- 4.4. The Portland Police Bureau recognizes that duty may require members to use force.
- 4.5. The Bureau also recognizes that the use of deadly physical force will emotionally, physically and psychologically impact the member involved, the subject of the deadly physical force, and the family and friends of both and can impact the community as well.
- 4.6. The Bureau requires that members be capable of using effective force on behalf of the community when appropriate.
- 4.7. It is the intention of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical.
- 4.8. The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law.
- 4.9. The Bureau is dedicated to providing the training, resources and management that help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force.
- 4.10. Members should be aware the Bureau's force policy is more restrictive than the constitutional standard and state law. The Bureau's policy regarding satisfactory performance during confrontation management (DIR 315.30.1.3) does not modify the standards for use of force contained in this policy.

## **5. FORCE PERFORMANCE REQUIREMENTS**

- 5.1. To comply with this Directive, members must:

- 5.1.1. Satisfy the constitutional standard by using only force that is objectively reasonable under the totality of circumstances, including:
  - 5.1.1.1. Severity of the crime
  - 5.1.1.2. Time, tactics and resources available
  - 5.1.1.3. Attempts by the subject to avoid control by flight
  - 5.1.1.4. Resistance by the subject to efforts at control
  - 5.1.1.5. Threat, extent of immediate threat to officers, self or others
  - 5.1.1.6. Impact of the person's behavior on the public
  - 5.1.1.7. The other circumstances that affect the balance of interests between the government and the person.
- 5.1.2. When applying force, continually assess the amount of force required, including the number of officers required to control a subject, and de-escalate as reasonable.
- 5.1.3. In determining whether to use force, take into account all information, when feasible, including behavior, reports, and known history, conveyed to or observed by the member indicating that a person has, or is perceived to have, mental illness.
- 5.1.4. During a confrontation with a person known or perceived to be in mental health crisis, members must recognize and reasonably balance the governmental interest in providing care to the person and call in specialized units when practical.
- 5.1.5. The Bureau shall evaluate a member's conduct under sections 5.1 through 5.4 from the perspective of a reasonable officer facing the same circumstances as the member.

## **6. ADDITIONAL RULE FOR DEADLY PHYSICAL FORCE**

- 6.1. The decision to use deadly physical force is the most important decision that a member will make in the course of a police career. The Portland Police Bureau recognizes that members may be required to use deadly force when their lives or the life of another is jeopardized by the actions of others. Therefore, state law and Bureau policy provide for the use of deadly force that complies with all other requirements of this policy (including Sections 5 and 7) under the following circumstances:
  - 6.1.1. 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.
  - 6.1.2. A member may use deadly force to affect the capture or prevent the escape of a suspect where the member has probable cause to believe that the suspect

poses an immediate threat of death or serious physical injury to the member or others.

- 6.1.3. If tactically feasible, some warning has been given.
- 6.1.4. Members must be mindful of the risks inherent in employing deadly force, which may endanger the lives of innocent persons. A member's reckless or negligent use of deadly force is not justified in this policy or state statute. Members are to be aware that this directive is more restrictive than state statutes.
- 6.1.5. Members of the Portland Police Bureau must not precipitate the use of deadly force by placing themselves or others in jeopardy by engaging in actions that are inconsistent with training the member has received with regard to generally acceptable police practices and tactics.
- 6.1.6. For duties, responsibilities, and procedures following a use of deadly force or an in-custody death, see DIR 1010.10 Post Deadly Force Procedures.

## **7. RESTRICTION ON USE OF FIREARMS AS DEADLY FORCE**

### **7.1. Warning Shots**

- 7.1.1. Members will not fire warning shots.

### **7.2. Shooting At a Moving Vehicle**

- 7.2.1. For the purposes of this policy, a moving vehicle itself shall not presumptively constitute a threat that justifies the member's use of deadly physical force. The member using deadly physical force must be able to clearly articulate the reason for the use of deadly physical force. Members shall not discharge a firearm at a person(s) in a moving vehicle unless one or both of the following criteria are met:
  - 7.2.1.1. To counter an active threat of death or serious physical injury to the officer or another person, by a person in the vehicle using means other than the vehicle.
  - 7.2.1.2. There are no other means available at the time to avert or eliminate the threat.
  - 7.2.1.3. Members threatened by an oncoming vehicle should attempt to move out of its path instead of discharging a firearm at it or any of its occupants.
- 7.2.2. In those cases where the criteria are met, Bureau members shall take into account the location, vehicular and pedestrian traffic and any hazard to innocent persons before discharging a firearm at a moving vehicle.

- 7.2.3. The listed criteria do not allow members to use poor tactics or positioning as justification for discharging a firearm at a moving vehicle. An example of poor tactics would be a situation in which a member places him/herself into the path of a moving vehicle, and uses the danger he/she finds him/herself in as the sole justification for shooting at the vehicle. Tactics of this nature are prohibited.

### **7.3. Shooting From a Moving Vehicle**

- 7.3.1. Members shall not discharge a firearm from a moving vehicle except:
- 7.3.2. In the immediate defense from the threat of death or serious physical injury to the officer or another person.
- 7.3.3. No other means exists at the time to avert or eliminate the threat.

## **8. AUTHORIZED USES FOR FIREARMS OTHER THAN AS DEADLY FORCE**

- 8.1.** A member is also authorized to discharge a firearm in the performance of official duty under the following circumstances:

- 8.1.1. To kill or deter a dangerous animal or to kill an animal so badly injured that it should be destroyed to prevent further suffering.(see DIR. 631.70 and DIR 910.00 for reporting requirements)
- 8.1.2. At a firing range pursuant to all safety rules and regulations.

### **8.2. Negligent Discharge**

- 8.2.1. Detectives will respond and assume investigative responsibility for all negligent or unintentional discharges pursuant to Detective Division SOP, except:
  - 8.2.1.1. When the discharge occurs at a Bureau authorized firearms range and no person was endangered. In such a case, the Training Division will investigate and report pursuant to Training Division SOP.

## **9. PROHIBITIONS THAT APPLY TO ALL FORCE**

### **9.1. Entering Vehicles**

- 9.1.1. Due to the risks involved, members are prohibited from entering an occupied vehicle capable of being driven (i.e., engine running or keys in the ignition) except as a last resort to prevent an imminent death or serious physical injury.

## **9.2. Precipitation of Use of Force Prohibited**

- 9.2.1. Members should recognize that their approach to confrontations may influence whether force becomes necessary and the extent to which force must be used.
- 9.2.2. Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with the Police Bureau's defensive tactics and tactical training without a substantial justification for variation from recommended practices.

## **10. LESS LETHAL TOOLS PROHIBITIONS**

**10.1.** Due to the special considerations associated with less lethal tools, additional force prohibitions related to those tools are outlined in the following:

- 10.1.1. DIR. 1030.00 Baton Use
- 10.1.2. DIR. 1040.00 Aerosol Restraints
- 10.1.3. DIR. 1050.00 Less Lethal Weapons and Munitions
- 10.1.4. DIR. 1051.00 Electronic Control Weapon Systems
- 10.1.5. Training guidelines for the use of a hobble
- 10.1.6. Canine Unit Standard Operating Procedures

## **11. POST USE OF FORCE MEDICAL ATTENTION**

**11.1.** When a member is involved in a police action that results in physical injury or there is reason to believe there may be a physical injury, the member, if tactically appropriate and feasible, will:

- 11.1.1. Request EMS evaluate and treat those persons involved and injured prior to removal from the scene.
- 11.1.2. The member will continually monitor the person for changes in skin or lip color, breathing and levels of consciousness. If any significant changes in any of these areas are observed, the member will notify EMS immediately. See DIR 630.50 Emergency Medical Aid for further requirements.
- 11.1.3. Contact the immediate supervisor and brief the supervisor on the incident.
- 11.1.4. Have the person transported to a medical facility for additional treatment if recommended by EMS. See DIR 630.45 Emergency Medical Custody Transports for important additional direction on transporting injured subjects.
- 11.1.5. When transporting a person from hospital treatment to a correctional facility, notify a corrections staff member of the extent of the person's



injuries and medical treatment given and provide the corrections staff with the person's medical release forms from the medical facility.

- 11.1.6. If a person has been placed in a position or pressed to the ground for control in a way that restricts or blocks the normal function of the lung or airway, members must do the following as soon as practical:
  - 11.1.7. Summons EMS.
  - 11.1.8. Release pressure / weight from the person's back or upper body.
  - 11.1.9. Check and continue to monitor the person's breathing and pulse until EMS arrives.
  - 11.1.10. Place the person in a seated position or position the person on their side to reduce the possibility of breathing problems by reducing the restriction to the person's diaphragm.
  - 11.1.11. Provide EMS with an update on the person's condition if it appears to worsen.
  - 11.1.12. For additional medical treatment requirements in special circumstances, see:
    - 11.1.12.1. DIR 630.45 Emergency Medical Custody Transports;
    - 11.1.12.2. DIR. 1030.00 Baton use;
    - 11.1.12.3. DIR 1040.00 Aerosol Restraints;
    - 11.1.12.4. DIR 1050.00 Less Lethal Weapons and Munitions;
    - 11.1.12.5. DIR 1051.00 Electronic Control Weapons Systems.
  - 11.1.13. For important additional guidance on transporting injured persons, see DIR 630.45 Emergency Medical Custody Transports.

## **12. FORCE NOTIFICATION AND REPORTING**

- 12.1.** Members who use force must include a description of that exercise of police authority in the report required by DIR 910.00. When addressing a use of force in a 910.00 report, members must provide a complete and accurate account of the force decision making and describe the subject's behavior and the justification for the force used or handcuffing, including a description of the totality of circumstances that existed.
- 12.2.** Members must complete and submit a Force Data Collection Report after using any of the force options listed on that report.
- 12.3.** If the primary report and FDCR covering the specific incident are completed by one member, and another member used physical force in the incident, then each member who used physical force will complete a FDCR. The only exception to this is when the use of force was pointing a weapon at one or more persons (i.e., during a high risk stop). In that case, only one FDCR need be completed.

**12.4.** Members have a duty to report any use of force, by another member, that violates the constitutional standard.

**12.5.** The following circumstances do not require a FDCR:

12.5.1. Bureau approved training exercises (i.e.; an in-service patrol tactics class).

12.5.2. If the member is injured and unable to submit a report, the reports regarding the use of force will be completed by an on-duty supervisor. Supervisors will be notified as soon as possible of the use of force.

12.5.3. Members should be aware that DIR 940.00 requires them to initiate the DIR 940.00 process by notifying a supervisor when:

12.5.3.1. A FDCR is required, or;

12.5.3.2. A subject complains of an injury, or;

12.5.3.3. A subject sustains, an injury, or;

12.5.3.4. The subject or a bystander makes a complaint concerning an officer's use of force. (See DIR 940.00 for details.)

12.5.4. Supervisors will ensure that members comply with all reporting requirements.

### **13. CANINE (K-9) BITES**

**13.1.** Canine handlers will document all bites, per SOP, on the Canine Unit Bite Report Form.

**13.2.** Canine handlers will initiate an after action review following all bites by making the notification required by DIR 940.00.

**13.3.** In addition to making a Bite Report and a DIR 940.00 notification, canine handlers will complete a FDCR for all bites that follow a member's application of a police canine for the purpose of biting.

**13.4.** Canine unit supervisors will report all canine bites through channels to the appropriate Branch Chief in the after action process required by DIR 940.00.

**13.5.** The Canine Unit will provide canine handlers a Bite Report Form approved by the Inspector. The Bite Report must capture the occurrence and general circumstances of every bite in a form that allows the data to be integrated with the Bureau's force reports.

**13.6.** The Canine Unit will compile all Canine Unit Bite Report Forms and DIR 940.00 after action reports in a comprehensive report to the Inspector every six months. The report must be in a form approved by the Inspector and must allow the data to be integrated with the Bureau's force reports.

## **14. SUPERVISOR RESPONSIBILITIES**

### **14.1. Supervisory Review of Reports**

- 14.1.1. Supervisors shall review all reports of force to determine if the reports are complete and accurate and whether the force was justified under this policy.
- 14.1.2. Supervisors shall address deficiencies in reports promptly.

### **14.2. After Action Process**

- 14.2.1. Supervisors who receive notification of a Force Event (as defined in DIR 940.00 (After Actions and Operation Orders)) will conduct an administrative review and complete the report and analysis required by DIR 940.00 After Actions and Operation Orders.

## **15. RU MANAGERS' RESPONSIBILITIES**

### **15.1. After Action Review**

- 15.1.1. RU managers will ensure that all supervisors in the chain of command conduct thorough reviews of After Actions reported in accordance with DIR 940.00 utilizing the following standards:
  - 15.1.1.1. Ensure completeness and order additional investigation when necessary.
  - 15.1.1.2. Modify findings as appropriate and document modifications.
  - 15.1.1.3. Document any training deficiencies, policy deficiencies, or poor tactical decisions, and ensure supervisors discuss poor tactical decisions with members and document the discussion in EIS.
  - 15.1.1.4. Suspend an investigation immediately and notify the branch assistant chief, the Professional Services Division (PSD) captain, the Director of Services, and the Detective Division whenever the investigating supervisor, shift commander or division commander finds evidence of apparent criminal conduct by a member.
  - 15.1.1.5. Report a matter to PSD for review and investigation whenever an investigating supervisor, shift commander, or division commander finds evidence of apparent misconduct by a member.

15.1.1.6. Notify PSD when the matter involves a serious use of force, as defined in DIR 940.00.

## **15.2. Discipline Case Review Process**

15.2.1. RU managers will ensure that all requirements of force policies are addressed when preparing proposed findings in misconduct investigations and must include all available information on the totality of circumstances.

15.2.2. Semi-annual Review of Use of Force

15.2.3. The Police Bureau will provide the training, resources and management necessary to help members comply with this directive.

15.2.4. Each operational unit will identify a unit-based group to review the unit's force practices and assist supervisors in conducting semi-annual reviews of each member's performance in confrontations. The reviews are a training function, and not a part of the discipline process. The goals of the review effort are to:

15.2.4.1. Ensure consistency and fairness.

15.2.4.2. Provide feedback to officers on force and confrontation decision making.

15.2.4.3. Identify training needs based on trends.

15.2.4.4. Create a positive learning environment.

## **16. HISTORY**

**16.1.** Established April 1979

**16.2.** Revision #3: Format Only (K. Lavoie)

**16.3.** Effective December 13, 2013

**16.4.** Review date: December 2014

**16.5.** Review by: Professional Standards Division



**MICHAEL REESE**

Chief of Police

MWR/mm

