

PROPOSAL

Adopt a PPB directives for use of force that incorporates a disengagement/de- policy and training as an organizing principle for use of force. [The WG acknowledges that PPB “use of deadly force” directives are no longer separate from other use of force polices: several directives may pertain to use of deadly force].

BACKGROUND

The Use of Deadly Force Work Group (WG) was formed in 2012 to investigate concerns about PPB use of deadly force and resulting injuries and deaths. This inquiry was triggered, at least in part, by the belief expressed to CRC by community concerns that some of these injuries and deaths were unjustified and/or avoidable.

WG members have, during the WG’s term, talked with and absorbed information during work group meetings from many groups from within the PPB:

1. PPB training division,
2. Behavioral Health Unit,
3. SERT (special emergency reaction team)
4. Robert Day, Precinct Commander (crowd control)
5. Daryl Turner, PPA

WG members have also met with many community individuals and organizations:

6. Albina Ministerial Alliance,
7. “Don’t Shoot Portland”
8. Cop Watch,
9. League of Women Voters,
10. mental health professionals (Project Respond),
11. Portland City Attorneys,
12. Office of Internal Review (OIR),
13. OHSU Public Safety

The WG has also studied and commented on the USDOJ / City agreement and its effect on use of force in Portland..

FACT FINDING MEETINGS

The WG’s meetings have studied many aspect of ‘use of force’ in policing:

1. PPB training division : Learn about action / reaction; use of surprise; dealing with the mentally ill; drug and alcohol abuse; effect of communication barriers; and use of tactics such as command presence, control holds, less than lethal force and intimidation to discourage resistance.
2. Behavioral Health Unit (BHU) and Project Respond: Discussions of training and handling of those perceived to have mental illness; Hours and availability of BHU

- and Project Respond; difficulty in identifying people in, or prone, to crisis; and limitations of BHU and Project Respond to deal with mental health crisis
3. SERT (Special Emergency Reaction Team): Discussion of SERT use of force including advantage of time and distance available to SERT due to circumstances sometimes unique SERT's deployments.
 4. Precinct commander Bob Day: Discussion about use of force mostly in crowd control circumstances (**again, advantages of time, distance and planning**)
 5. AMA (Albina Ministerial Alliance): Disproportionate use of force against minorities; and, unnecessary use of force.
 6. "Don't Shoot Portland": Disproportionate use of force against minorities and use of force use against demonstrators.
 7. Cop Watch
 8. League of Women Voters
 9. Mental health Professionals (Project Respond): Uses and limitations of Project Respond to deal with mental health crisis
 10. Portland City Attorneys: Office perspective on directives and US Constitutional law applicable to Use of Deadly Force
 11. PPA: Union representation perspective on use of force and protections of collective bargaining agreement.
 12. Office of Internal Review (OIR). Discussion about OIR findings on PPB use of force.
 13. OHSU Public Safety : OHSU unique perspective of de-escalation of use of force to deal with resistance to arrest.
 14. Labor Lawyer Barb Bloom (represents Gov: Discussion of public sector labor arbitration and effect of ambiguous work rules and directives)

AMONG THE WG CONCLUSIONS ARE THE FOLLOWING:

*Use, or threat of use, of even moderate force against people with diminished capacity due to mental illness, fear of police, drugs, alcohol, language barriers or hearing deficit can trigger fright, resistance and aggression by person being confronted by police: Fight or Flight reaction.

*Use of Force against people with diminished capacity can lead to a quick upward spiral of added force to combat added resistance, quickly endangering both officer and citizen.

* Current PPB directives give inadequate guidance on when and how force should be used. The *Graham v. Conner* US Supreme Court decision, which lays out the United States Constitution's **minimum standard for lawful police use of force**, but does not state a use of force standard for PPB officers; does not reflect current best practices for use of deadly force; and, does not give adequate guidance to officers on use of force.

* Use of Force should be a last resort, especially against persons unlikely to comply with police directions due to drugs, alcohol, mental illness, emotional crisis, language barriers, or hearing deficit.

PPB currently has policies that attempt to direct officers to avoid precipitating situations which may likely result in the need to use deadly force: [Dir 1010 (3.1.4)]. Current PPB use of force directives call for officers to use “**less force than the maximum allowed by (law)**” and for “**minimizing or avoiding force when possible**”. [Dir. 1010 Policy 8; 315.30 (3.1) and (3.4)]. PPB directives also state officers must be aware that PPB directives **require use of force that is less than that allowed by state statute**: [Dir 1010 (3.1.4)]: “Members are to be aware that this Directive is more restrictive than state statutes.” Current PPB training teaches officers to de-escalate and disengage under certain circumstances, primarily in situations involving identified mentally ill. HOWEVER, CURRENT PPB DIRECTIVES HAVE NO CLEAR, **ORGANIZING PRINCIPLE** FOR OFFICER USE OF FORCE THAT LEADS TO DIMINISHED RELIANCE ON USE OF FORCE AGAINST PEOPLE WITH IMPARED CAPACITY OF ANY KIND..

Accepted police training teaches that in situations involving people with diminished capacity, mental illness, fear, communication barriers and for people “in crisis”, officers should, when safe and practical, create “time and distance” between themselves and the person, in order to attempt to defuse the situation, to obtain needed additional resources, to gain voluntary compliance and to avoid endangering both the officer and the subject. A general Use of Force directive that requires officers to apply **DE-ESCALATION** tactics when such tactics may be used safely and practically, would clearly codify and highlight the goals of existing PPB directives’ and training. During the WG’s meeting with the PPB training division, it was made clear that officers are trained in de-escalation tactics. However, the WG notes that there is no directive regarding de-escalation. Logically, there should be des-escalation directive so that officers are given clear written guidance, which is supplemented by current good training. If a question ever arises regarding whether officer conduct has been consistent with PPB de-escalation policies, a written de-escalation directive will allow for a more objective and fair evaluation of the conduct in question, rather than relying just on training methods. Having a written, objective standard/directive is in the best interests of the PPB, its personnel, the City and the public.

An example of such a directive is that adopted by the City of Seattle:

8.100**Use of Force – DE-ESCALATION****1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force**

De-escalation tactics and techniques are actions used by officers, when safe and without compromising law enforcement priorities, which that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance. (See 8.050.)

When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution.

When time and circumstances reasonably permit, officers shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

- Medical conditions
- Mental impairment
- Developmental disability
- Physical limitation
- Language barrier
- Drug interaction
- Behavioral crisis

An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

Mitigating the immediacy of threat gives officers time to utilize extra resources, and increases time available to call more officers or specialty units.

The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used.

Other examples include:

- Placing barriers between an uncooperative subject and an officer
- Containing a threat
- Moving from a position that exposes officers to potential threats to a safer position
- Decreasing the exposure to potential threat by using
 - Distance
 - Cover
 - Concealment
- Communication from a safe position intended to gain the subject's compliance, using:
 - Verbal persuasion
 - Advisements
 - Warnings
- Avoidance of physical confrontation, unless immediately necessary (for example, to protect someone, or stop dangerous behavior)
- Using verbal techniques, such as Listen and Explain with Equity and Dignity (LEED) Training, to calm an agitated subject and promote rational decision making
- Calling extra resources to assist or officers to assist:
 - More officers
 - CIT officers
 - Officers equipped with less-lethal tools
- Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject