



## CITY OF PORTLAND, OREGON



### Bureau of Police

Charlie Hales, Mayor  
Michael Reese, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000 • Fax: 503-823-0342

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## EXECUTIVE ORDER

**DATE:** December 4, 2014

**TO:** All Bureau Members

**RE:** Directive 940.00, After Action Reports (Name Change)

**ACTION:** Revision of 940.00, effective December 4, 2014

### 940.00, After Action Reports

#### Refer:

- United States v. City of Portland Settlement Agreement
- ORS § 161.015, Physical Injury and Serious Physical Injury, Defined
- Directive 315.30, Satisfactory Performance
- Directive 330.00, Internal Affairs, Compliant Intake and Processing
- Directive 333.00, Criminal Investigations of Police Bureau Employees
- Directive 345.00, Employee Information System
- Directive 630.05, Vehicle Pursuits
- Directive 631.70, Investigation of Animal Problems
- Directive 635.10, Crowd Management/Crowd Control
- Directive 1010.00, Use of Force
- Directive 1051.00, Electronic Control Weapon System
- After Action Form (CHO)
- Operation Order Form (CHO)

#### Definitions:

- **Administrative Review:** A review that is a written determination that requires the gathering and evaluating of information to determine a course of action.
- **After Action Report:** A narrative report that describes a police action and assesses its effectiveness through critique and evaluation using required criteria.
- **Complaint of Excessive Force:** A complaint by a subject at the scene or while in police custody of excessive force during a police action or a complaint of excessive force by a witness at the scene. NOTE: This definition identifies a particular kind of complaint of excessive force to which the procedures in this Directive apply. All other complaints will be processed in accordance with Directive 330.00, Internal Affairs, Complaint Intake and Processing.
- **Complaint of Physical Injury:** An assertion by a person that a member caused the person physical injury.

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- Force: Physical coercion used to affect, direct or influence an individual, as well as the pointing of a firearm and use of maximum restraint. Control holds and un-resisted handcuffing do not constitute force unless physical or mechanical intervention is applied against physical resistance.
- Force Event: An event listed in the Force Data Collection Report section of the General Offense Report or its equivalent in future systems.
- Physical Injury (ORS § 161.015 (7)): Physical injury means impairment of physical condition or substantial pain.
- Serious Physical Injury (ORS § 161.015 (8)): Any 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 the function of any bodily organ.

**Policy:**

1. The purpose of this policy is to establish investigative and reporting guidelines for After Action Reports. This policy includes the specific reporting requirements for all Force Events as defined in this Directive.

**Procedure:**

1. An After Action Report shall be written for the following events/incidents:
  - 1.1. Vehicle pursuits.
  - 1.2. Force Event (except pointing of a firearm).
  - 1.3. Complaint of Excessive Force.
  - 1.4. Complaint of Physical Injury.
  - 1.5. Firearm discharge, except during training, qualification, or practice, if the discharge is consistent with the intended purpose and is not negligent.
  - 1.6. Major Incidents:
    - 1.6.1. The Patrol Supervisor, the Rapid Response Team Supervisor, and the Crowd Control Incident Commander will each complete an After Action Report following crowd events.
    - 1.6.2. The Patrol Supervisor, the Special Emergency Reaction Team (SERT) Supervisor, and Critical Incident Commander will each complete an After Action Report following limited or full SERT deployment.
    - 1.6.3. The Patrol Supervisor, the Crisis Negotiation Team (CNT) Supervisor, and the Critical Incident Commander will each complete an After Action Report following limited or full CNT deployment.
    - 1.6.4. Explosives Disposal Unit (EDU) deployment per Standard Operating Procedure (SOP).
    - 1.6.5. The EDU supervisor will complete all necessary EDU After Action Reports.
    - 1.6.6. The On-Scene Uniform Supervisor will complete an After Action Report on EDU call outs only when deemed appropriate by the EDU Supervisor or his/her Responsibility Unit Commander.
  - 1.7. Officer injury requiring treatment at a medical facility or requiring the officer to end his/her shift prematurely.
  - 1.8. Injury to suspect in custody.
  - 1.9. Police vehicle collision.
  - 1.10. Damage to or loss of city property.
  - 1.11. Property Evidence Division firearm and narcotics destruction.
  - 1.12. Any incident or event for which an Incident Action Plan was written.
  - 1.13. Destruction of animal(s), in accordance with Directive 631.70, Investigation of Animal Problems.
  - 1.14. Any other incident or event, as directed.
2. After Action Report Format and Deadlines:
  - 2.1. All After Action Reports shall be submitted in the standard Bureau format, which may be downloaded from the Intranet. The appropriate Assistant Chief will forward copies to the Training Division (Training) and Internal Affairs, when appropriate. The format shall not be changed or altered without permission of the Chief of Police. The report format is:
    - 2.1.1. Summary: The summary will be a short one or two paragraph narrative that describes the significant facts of the event.

- 2.1.2. Personnel Costs (if applicable): This will detail the costs of the incident by each employee category or rank, per current bargaining contract, and any other costs incurred that can be reasonably obtained during the seven (7) day period. These costs will be calculated using the following formula: The number of individuals participating per rank or category multiplied by the hourly wage for that rank or category multiplied by the total hours. The lines shall be arranged in columns for easy reading. Straight time and overtime will be kept separate, but totaled at the end. The highest rate at each rank may be used.
  - 2.1.3. Critique Findings and Recommendations: The critique findings and recommendations will contain a thorough analysis of the incident. It will address any applicable directives, whether or not members complied with such directives, and any recommendations or actions taken to address issues stemming from this area of the After Action Report.
  - 2.1.4. Appendix: The appendix will contain a compiled list of any attachments or documents that are included with the After Action Report. This will enable any subsequent reader to determine if all of the supporting documentation is present.
  - 2.1.5. Additional Content: Supervisors conducting force investigations should refer to Sections 4 below for additional content necessary to an After Action Report.
- 2.2. The Responsibility Unit Manager will complete their review and submit recommendations to the appropriate Assistant Chief within twenty-one (21) days from the date of the event. Exceptions to this requirement must be approved by the appropriate Assistant Chief and the approval must be documented in the After Action Report.
  - 2.3. The appropriate Assistant Chief (or designee) will complete the review of an After Action Report within twenty-eight (28) days from the date of the event.
3. Additional action required for specific After Action Reports:
    - 3.1. Additional action is required for After Action Reports regarding a Force Event, a Complaint of Excessive Force, a Complaint of Physical Injury, or actual injury to a subject in custody.
    - 3.2. All members will notify an on-duty supervisor as soon as practical when a Force Event, a Complaint of Excessive Force, a Complaint of Physical Injury, or actual injury to a subject in custody as defined within this Directive occurs or they become aware of the same.
    - 3.3. A supervisor conducting an administrative review of a Force Event, a Complaint of Excessive Force, a Complaint of Physical Injury, or actual injury to a subject in custody will collect and document in the Use of Force After Action Report Form (available on the Intranet) the following information:
      - 3.3.1. Member statements: Supervisors will personally speak to the involved witness member(s) and make an inquiry sufficient to describe the nature of the force and the member's justification, and document these in the Use of Force After Action Report Form.
      - 3.3.2. Subject statements: Supervisors will make an attempt to obtain a statement from the subject detailing the event and any injuries.
      - 3.3.3. Witness statements: Supervisors will make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor will ensure that the witness statements are documented in the appropriate report.
      - 3.3.4. Physical evidence: Supervisors will ensure that the administrative review collects any physical or photographic evidence that may assist later reviewers in understanding the scene and event.
      - 3.3.5. Critique findings and recommendation.
  - 3.4. Supervisors completing force related After Action Reports must do the following:
    - 3.4.1. The supervisor who conducts the force investigation of a Force Event, a Complaint of Excessive Force, a Complaint of Physical Injury, or actual injury to a subject in custody will document any

training deficiencies, policy deficiencies, or poor tactical decisions, ensure a supervisor discusses poor tactical decisions with the member and ensure the discussion is documented in the After Action Report.

3.4.2. All supervisors in the chain of command review must:

- 3.4.2.1. Review all reports to ensure they include the information required by the Department of Justice Agreement and Bureau policy,
- 3.4.2.2. Use a decision point approach to analyze each use of force,
- 3.4.2.3. Determine whether the member's action appears consistent with the Department of Justice Agreement, Bureau policy, and best practices,
- 3.4.2.4. Determine whether there was legal justification for the original stop and/or detention,
- 3.4.2.5. Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or lesser force options,
- 3.4.2.6. Determine whether additional training or counseling is warranted,
- 3.4.2.7. Make findings by applying the preponderance of the evidence standard,
- 3.4.2.8. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings and counsel the investigator as appropriate,
- 3.4.2.9. Implement corrective action whenever there are material omissions or inaccuracies in the member's reports, and for failing to report a use of force, whether applied or observed if corrective action has not been implemented,
- 3.4.2.10. Document any non-disciplinary corrective action to remedy training deficiencies, policy deficiencies, or poor tactical decisions in the After Action Report, if such information has not been documented already,
- 3.4.2.11. Notify the Professional Standards Division and the shift lieutenant of every incident involving a member's serious use of force, and any use of force that could appear to a reasonable supervisor to violate the *Graham* standard, if notification has not been made,
- 3.4.2.12. Notify the Detective Division and shift lieutenant of every Force Event in which it could reasonably appear to a supervisor that a member engaged in criminal conduct if notification has not been made,
- 3.4.2.13. Controvert findings as appropriate and document modifications,
- 3.4.2.14. Suspend an investigation immediately and notify the appropriate Assistant Chief, the Professional Standards Division, and the Detectives Division, whenever the investigating supervisor, shift commander, or division commander finds evidence of apparent criminal conduct by a Bureau member,
- 3.4.2.15. If evidence of a *Graham* standard violation on the part of a member or employee is discovered during a force investigation, a review of reports, or the chain of command review of an After Action Report, the supervisor who discovers the evidence shall immediately report the matter to the Professional Standards Division for review and investigation.

3.5. A supervisor tasked with completing an After Action Report regarding a Force Event, a Complaint of Excessive Force, a Complaint of Physical Injury, or actual injury to a subject in custody will complete the After Action Report within seventy-two (72) hours. Exceptions to this requirement will be rare and must be approved by the Responsibility Unit Manager of the precinct, division, or unit where the supervisor is assigned. This approval must be documented in the After Action Report.

3.6. The Responsibility Unit Manager will complete their review and submit recommendations to the appropriate Assistant Chief within twenty-one (21) days from the date of the event. Exceptions to this requirement will be rare and must be approved by the appropriate Assistant Chief and the approval must be documented in the After Action Report.

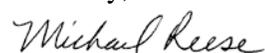
3.7. When the After Action Report involves a Force Event, a Complaint of Excessive Force, a Complaint of Physical Injury, or actual injury to a subject in custody the appropriate assistant chief (or designee) will complete the review of an After Action Report within twenty-eight (28) days from the date of the event.

4. Serious Use of Force Event – Mandatory/Immediate Report to Professional Standards Division:
  - 4.1. Serious Use of Force Event defined: (1) all uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part; (2) all critical firearm discharges by a member; (3) all uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor; (4) all head, neck and throat strikes with an object or carotid neck holds; (5) Force Event, complaint of excessive force or a complaint of injury involving a person known or reasonably assumed to be under fifteen (15) years of age, and females known or reasonably assumed to be pregnant; (6) all uses of force by a member resulting in a loss of consciousness; (7) more than two cycles of an electronic control weapon, regardless of outcome on an individual by one or more members during a single interaction; (8) any strike, blow, kick, electronic control weapon system cycle, or similar use of force against a handcuffed, otherwise restrained, under control, or in custody subject, with or without injury; (9) any use of force referred by a member's supervisor to Internal Affairs which Internal Affairs deems serious.
  - 4.2. In all incidents involving a Serious Use of Force Event as defined above, the supervisor will notify the Professional Standards Division as soon as possible and provide a briefing of the incident. If further investigation is deemed necessary the Professional Standards Division will respond to the scene and/or consult the Detective Division as appropriate. The Professional Standards Division will also be notified immediately of any use of force against a person with actual or perceived mental illness.
5. Accountability for all After Action Reports:
  - 5.1. All supervisors in the chain of command are accountable for the adequacy and analysis of reports submitted by supervisors under their chain of command and will ensure that any pattern of repeatedly deficient investigations is identified, reported and addressed.
  - 5.2. Where the use of force indicates policy, training, tactical, or equipment concerns, the immediate supervisor will notify the Professional Standards Division Inspector and the Chief of Police, through channels, who shall ensure that the concerns are addressed in a timely manner.
  - 5.3. The appropriate Assistant Chief (or designee), or the Professional Standards Division Captain, or Inspector, has the discretion to re-assign a use of force investigation to the Detective Division or any Bureau supervisor.
  - 5.4. The Chief of Police has delegated the authority to the Inspector to review, audit, and confirm After Action Report entries and ensure consistency across the Bureau.

**History:**

- Originating Directive Effective: 01/20/06
- First Revision Effective: 04/13/07
- Second Revision Effective: 01/01/12
- Third Revision Effective: 02/25/14
- Fourth Revision Effective: 12/04/14
- Next Review Date: 12/04/15
- Review By: Chief's Office

Sincerely,



MICHAEL REESE  
Chief of Police

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