



Following up on Portland Police Bureau's Response to Reviews of Officer-involved Shootings and In-custody Deaths

A Policy Review and Assessment Report by the PARC
Report Workgroup of the Citizen Review Committee

May 2010

Background

Oversight of Portland Police

Portland City Council established the Auditor's Independent Police Review Division (IPR) and the Citizen Review Committee (CRC) in 2001 to provide civilian oversight of police services. In 2002, Council passed an additional ordinance directing IPR to hire an outside expert to review closed Portland Police Bureau (PPB or Bureau) investigations of officer-involved shootings and in-custody deaths.

Police Assessment Resource Center

The Police Assessment Resource Center (PARC) is a Los Angeles-based, non-profit organization that works in cooperation with independent monitors, law enforcement executives, civic and government officials, community groups, and other interested stakeholders to strengthen police oversight. For example, PARC conducts reviews of police policies, practices, investigations, and management strategies and provides other research and consulting services. PARC was awarded a contract with IPR, producing four reviews of officer-involved shootings and in-custody deaths.

PARC's first Portland report (published in August of 2003) included 89 recommendations. Each of their three follow-up reports (published in 2005, 2006, and 2009, respectively) included a smaller number of additional recommendations and made note of the Bureau's progress on roughly a third of the original list (commenting on all 89 by the third follow-up).

PARC Report Workgroup

Seeking enhanced participation in the reviews of police shootings and deaths, members of the CRC formed the PARC Report Workgroup in the fall of 2007. Four CRC members were originally appointed: Michael Bigham (later named Chair), Hank Miggins, Loren Eriksson, and Josephine Cooper. Cooper, who was primarily interested in interactions between police and the mentally ill, resigned from CRC and the Workgroup in the spring of 2009. The Workgroup has been staffed by IPR's Senior Management Analyst, Derek Reinke.

Then-IPR Director, Leslie Stevens advised the Workgroup that while PARC was conducting follow-up on the original recommendations, Bureau progress on new recommendations made in the 2005 and 2006 reports was not likely to be assessed for several years. The Workgroup decided to make that assessment their primary mission. During its review, the Workgroup also considered whether the original recommendation made sense (in its collective opinion) for Portland, evaluated policy and procedural implications, and added recommendations of their own. The Workgroup has yet to decide if or when they will assess the nine recommendations made in the 2009 report.

The Workgroup held more than 30 meetings to review the 2005 and 2006 recommendations and evaluate the Bureau's progress. Its meetings were open to community members in the interest of transparency and to facilitate public comment. Workgroup members interviewed more than 10 Bureau members including high-ranking staff of Training, Detectives, Internal Affairs, Accountability and Professional Standards, and the Portland Police Association (most agreed to attend a public workgroup meeting to share information). The Workgroup also reviewed numerous policies and supporting procedural documentation.

Executive Summary

Overall, the Bureau receives high marks for implementing the 26 recommendations made in the 2005 and 2006 PARC follow-up reports on officer-involved shootings and in-custody deaths. With few exceptions, the Bureau appears to have put a solid effort into making the changes recommended. The Workgroup's primary outstanding concerns have been organized into major subject areas listed below. More detailed discussion of each recommendation, the Bureau's implementation, and the Workgroup's response are provided in a later section of this report.

Prevention, Training, and Tactics

PPB promotes the Employee Information System (EIS, formerly known as the Early Intervention System) as a tool for tracking officer performance in a variety of areas. Although PPB has made significant progress in meeting the data consolidation goals of EIS, the system is not fully implemented as a management tool. The Workgroup recommends that PPB set a firm deadline for full utilization of the data and case management system. The Bureau should reestablish its EIS Advisory Board (which included CRC and other community members) and/or be open to involvement by IPR and CRC on EIS issues. Annual progress on EIS, and other functions of the Bureau's Office of Accountability and Professional Standards, should be publicly reported.

Refer to PARC Recommendation 2005.1 (page 7) and CRC Recommendation 2010.1

The Workgroup met with Training Division staff and reviewed various lesson plans. It was pleased that PPB has implemented PARC recommendations for emphasizing scenario-based training for officers. It encourages the Bureau to continue providing options and training for sergeants when dealing with critical situations. As proper training is a keystone of effective police services, the Workgroup challenges City Council to provide adequate resources for the training of officers and supervisors.

Refer to PARC 2006.13 and 2006.14 (pages 26-27), and CRC 2010.9

PPB rejected PARC recommendation 2005.5 that Bureau procedures require a supervisor and sufficient cover officers be present before members try to extract a subject from a vehicle. The Bureau's rejection was based on feasibility and staffing concerns, rather than a negative judgment on the desirable ideal the recommendation conveys. PPB command staff stated that – although policy does not prohibit single officer extractions – officers are trained to wait for a supervisor and/or cover officers unless exigent circumstances require an immediate extraction. The Workgroup feels current training reflects an appropriate compromise between the PARC recommendation and the Bureau's staffing concerns. It recommends that Bureau policy state that a cover officer or supervisor should be present before extraction unless they are unavailable or exigent circumstances require immediate action.

Refer to PARC 2005.5 (page 10) and CRC 2010.2

Medical Aid

Current PPB policy requires that officers render first aid to persons injured by the use of force by a Bureau member once “primary police duties have been accomplished” and (per a 2003 change) “at the earliest time feasible.” PARC recommends medical aid be rendered “as soon as possible unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel.” The Workgroup supports the

PARC recommendation and suggests that PPB re-visit the wording of its policy.
Refer to PARC 2005.7 (page 11), CRC 2010.3, and page 23 of the 2009 PARC report.

PARC also recommended that the Use of Force Review Board routinely determine if medical aid was appropriately and timely rendered. The Workgroup understands that rendering of medical aid is often – but not always – discussed at Review Boards. This should be clarified in policy. In 2008, the Use of Force Review Board reviewed *all* cases in which use of force resulted in transportation to the hospital. The Workgroup appreciates that PPB has widened the scope of their review (rather than just reviewing ‘serious injuries’) and recommends that the practice be codified into policy.

Refer to PARC 2005.8 (page 12), and CRC 2010.4 and 2010.5

Review Boards

Much of the second PARC follow-up report (2005) focuses on Performance and Use of Force Review Boards, which are centerpieces of PPB management’s review process for initially-sustained complaints, job performance issues, officer-involved shootings, and in-custody deaths. In theory, the Boards offer an objective review process including input from supervisors, peer officers and citizens. In practice, the Board processes can be confusing and inconsistent. PARC even appears to be confused by the process; referring to after-action reports instead of commander’s findings in one recommendation.

Refer to PARC 2006.1 (page 14)

The Workgroup recommends a dedicated Administrative Rule or Standard Operating Procedure detailing the Review Board process to enhance consistency. Among other issues, the new policy should address how officer testimony is requested, responsibilities of members, advisors, and the Chair, and specific voting procedures. The Bureau should involve the Portland Police Association and other partners in the preparation of the new policy and any materials provided to involved officers, peers, and others (as recommended by PARC in 2006.4).

Refer to PARC 2006.4 (page 16) and 2006.9 (page 20), and CRC 2010.6

Further, there is an apparent conflict of interest having an Assistant Chief act as Board Chair and also vote on the outcome of the case. While the consistency provided by a new rule or written procedure might alleviate some concerns, the Workgroup recommends that a non-voting hearings officer or administrative law judge be appointed to chair and facilitate all Review Board meetings. This facilitator would also be tasked with writing the briefing memo to the Chief of Police, which would better ensure that the memo objectively reported both majority and minority opinions.

Refer to PARC 2006.10 (page 24) and CRC 2010.7

Finally, the timeliness of the Review Board process – and earlier steps in the investigation – should be tracked, reported, and reevaluated on a periodic basis with a goal of steady improvement. PARC recommended case-long benchmarks of 180 days for officer-involved shootings and in-custody deaths. The Bureau’s own maximum allowable timeline specified in Directive 335.00 is 146 days. Neither standard seems to coincide with actual results as PPB frequently exceeds either timeline. The Bureau has questioned if six months is reasonable (or even possible given the overall workload of its Internal Affairs Division) in its written responses.

Refer to PARC 2006.7 (page 18)

When the Workgroup requested an update to a case timeliness table (page 27 of the second PARC follow-up report), some details simply had not been tracked and could not be provided. The Workgroup notes that steps have been taken that may increase efficiencies (e.g., civilianized staffing in IAD), but was unable to evaluate their effectiveness. The Workgroup recommends the Bureau develop a timeline checklist to accompany each case (to capture more accurate data), use current baselines to set reasonable timeliness targets, manage resources to adequately meet timelines, and track results.

Refer to CRC 2010.8

Civilian Oversight of Shooting and Death Investigations

In its original report, PARC questioned why officer-involved shootings and in-custody deaths are treated so differently from complaint-based investigations in terms of civilian oversight. It recommended that City Council develop a system for such oversight, whether as an expansion of IPR's jurisdiction or a separate mechanism. PARC restated this recommendation in its 2005 follow-up report.

Currently, IPR is limited to hiring an outside expert to review closed shooting and death cases, reviewing the IAD case file – as a courtesy – before they are sent through the PPB management hierarchy, and providing one advisory member to the associated Use of Force Review Board. The Workgroup recommends City Council review the current oversight system as it relates to officer-involved shootings and in-custody deaths. Among other details, the Workgroup feels that IPR should review files as a matter of policy (rather than courtesy), call for additional investigation as needed, have the ability to controvert findings (as in complaint-based investigations), and have a more active role on the Bureau's Review Boards. The Workgroup also believes IPR should take on the monitoring roles that PARC suggests, including oversight of the crime-scene procedures, evidence collection and preservation, witness identification and interviewing, investigative file integrity, and presentation of evidence at Review Boards.

Refer to PARC 5.15 (2003 Report), CRC 2010.10, and pages 44-45 of the 2005 PARC report.

CRC's PARC Workgroup Recommendations

CRC Recommendation 2010.1: PPB should set a firm deadline for full utilization of the data and case management components of its Employee Information System. The Bureau should reestablish its EIS Advisory Board (which included CRC and other community members) and/or be open to involvement by IPR and CRC on EIS issues. Annual progress on EIS, and other functions of the Bureau's Office of Accountability and Professional Standards, should be publicly reported.

CRC Recommendation 2010.2: The Bureau should edit its directives to state that a cover officer or supervisor should be present before a member attempts to forcibly extract a subject from a vehicle unless they are unavailable or exigent circumstances require immediate action.

CRC Recommendation 2010.3: PPB should edit policy to ensure medical aid is rendered "as soon as possible unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel."

CRC Recommendation 2010.4: Use of Force Review Boards should routinely and by policy address if medical aid was appropriately and timely rendered.

CRC Recommendation 2010.5: PPB should edit policy to reflect that Use of Force Review Boards will annually review all cases in which use of force resulted in transportation to the hospital.

CRC Recommendation 2010.6: The Bureau should collaborate with key stakeholders to develop a dedicated Administrative Rule or Standard Operating Procedure detailing the Review Board process. Among other issues, the new policy should address how officer testimony is requested, responsibilities of members, advisors, and the Chair, and specific voting procedures.

CRC Recommendation 2010.7: PPB should contract with a hearings officer or administrative law judge to chair and facilitate all Review Board meetings.

CRC Recommendation 2010.8: The Bureau should develop a timeline checklist to accompany each officer-involved shooting or in-custody death case, use current baselines to set reasonable timeliness targets, manage resources to adequately meet timelines, and track results.

CRC Recommendation 2010.9: City Council should provide adequate resources for scenario-based training of PPB officers and supervisors.

CRC Recommendation 2010.10: City Council should expand the role and authority of IPR in officer-involved shootings and in-custody deaths – including the ability to conduct independent investigations of these cases as needed. The expanded authority should also include monitoring roles such as oversight of the crime-scene procedures, evidence collection and preservation, witness identification and interviewing, investigative file integrity, and presentation of evidence at Review Boards.

Detailed Review of Recommendations and Response

This section includes Portland Police Bureau response and Workgroup comment on each of the 26 2005-2006 PARC Recommendations. Bureau responses (except where noted) were provided by the Office of Accountability and Professional Standards (OAPS) in late 2008, and changes may have occurred since. Bureau responses are printed in Trebuchet MS Font while Workgroup comments are printed in *italics (with their recommendations underlined)*. PARC Recommendations are printed in **bold**, bordered, shaded in light gray, and presented separately in the Appendix. The Appendix also includes referenced Bureau Directives, Standard Operating Procedures (SOPs), and other documentation. It does not include the four Training Division lesson plans reviewed by the Workgroup, as the Bureau indicated that they were too sensitive and detailed for wide, public dissemination. The length of the lesson plans was a Workgroup concern as well; the Appendix is over 80 pages without them.

PARC Recommendation 2005.1: The PPB should set a firm deadline for making its early intervention system operational and should prioritize its resources so as to ensure meeting that deadline.

Bureau Response:

Phase I of the Early Intervention System (EIS) is complete and running, under the supervision of the OAPS. Phase I consists of the integration of all PPB data sets and their streamlining into a single, flexible information source. The system is currently restricted to Sergeants level and above, and is available through the normal PPB network including the Traffic Division.

Phase II of EIS has completed both the production and testing stages. It is not currently live; however it has been available to Commanders as part of the testing process. Phase II was the development of the Case Management system, which automatically flags pre-set categories of concern, based on particular threshold levels. Examples of these categories include an officer's arrest-to-force ratio, as well as an officer's complaint count. Having been flagged, the EIS administrator then utilizes the Case Management system to set in motion the review process, following along to ensure that the process is moving forward in a timely manner. Commanders and supervisors taking part in the review process do so within the EIS structure. Phase II had been delayed in part because of a grievance filed by the Portland Police Association union. That grievance was recently settled and management has agreed to train officers how to use the system and to make access to their individual information available before implementing Phase II.

The programmer who designed the PPB's EIS is the same individual responsible for systems in both Phoenix and Denver, on which the PPB's is modeled.

Workgroup Comment: see CRC Recommendation 2010.1 – PPB should set a firm deadline for full utilization of the data and case management components of its Employee Information System. The Bureau should reestablish its EIS Advisory Board (which included CRC and other community members) and/or be open to involvement by IPR and CRC on EIS issues. Annual progress on EIS, and other functions of the Bureau's Office of Accountability and Professional Standards, should be publicly reported.

Recommendation 2005.2: The PPB should promptly draft procedures to govern the administrative investigations by the Training Division concerning officer-involved shootings, in-custody deaths, and injuries resulting in hospitalization, and it should supplement its procedures for such investigations by the Internal Affairs Division so that they are at least as thorough as its procedures for misconduct investigations.

Bureau Response:

Portland Police Bureau Directive 335.00 states that a representative from the Training Division may be present during the board's review of incidents. In practice, the Training Division captain or representative has been present in an advisory role in every review since at least 2006. The Training Division also has a permanently assigned sergeant to conduct an analysis of officer involved shootings, in-custody deaths and other incidents as mandated by Directive 335.00.

Training Division SOP #1-11 outlines the procedures for conducting analyses of incidents mandated by directive for review by the Use of Force Review Board. These analyses focus on training, tactics, policies, the level of force applied and equipment used during these incidents. These analyses include a conclusion regarding adherence to policy, training and tactical doctrine and make recommendations for future training needs or policy changes. These reviews may be assigned to a command officer or other Training Division representative dependent on the frequency and types of cases.

The assigned Training Division representative has two weeks to review the case reports and meet with representatives from IAD and the Detective Division. During this meeting, relevant issues will be reviewed and responsibilities designated for each division's analysis. The Training Division has six weeks to complete its analysis and forward to the Use of Force Review Board Coordinator.

The Training Division sergeant or reviewing officer consults appropriate subject matter experts for assistance during these reviews. The analysis is forwarded through the Training Division chain of command for review. The Training Division representative then presents the completed analysis orally with the assistance of visual aids to the Use of Force Review Board for their consideration during the review of the incident.

Directive 335.00 was revised and updated on December 21, 2007, including revisions to the Training Division Manager's Responsibilities. *(Editor's note: Directives 335.00 and 336.00 are commonly referenced in the Bureau responses. The Workgroup requested that IPR create page- and line-numbered versions for easier reference. In this instance, please refer to page 4 - line 41 through page 5 - line 6 of 335.00.)*

References:

Bureau Directive 335.00
Training Division SOP #1-11

Workgroup Comment: item complete, 335.00 revised to address the issue. Also see the language for IAD Manager Responsibilities, page 4 - lines 27 through 39.

Recommendation 2005.3: PPB policy should make clear that administrative investigations of in-custody deaths and uses of force resulting in hospitalization are mandatory by eliminating the contradictory provisions from Section 335.00 that make them discretionary.

Bureau Response:

This concern was addressed in the revision of 335.00 effective December 21, 2007. In the updated 335.00, the section making such cases discretionary with the Chief has been removed. In the updated version, the section titled *Use of Force Review Board's Scope* includes review of "Serious injury caused by an officer that requires hospitalization and treatment" (page 2 - line 16 and 17).

Reference:

Bureau Directive 335.00

Workgroup Comment: see CRC Recommendation 2010.5 – PPB should edit policy to reflect that Use of Force Review Boards will annually review all cases in which use of force resulted in transportation to the hospital.

Recommendation 2005.4: PPB policy should prohibit involved officers from being transported by their assigned partners and should require, when feasible, that the transportation be done by a supervisor or a detective.

Bureau Response:

As mentioned in the 2005 status reply (rejecting the recommendation), Directive 1010.10 does ensure that involved members are driven by uninvolved members. Witness members are not considered uninvolved, and they may not drive involved members, although they may drive themselves. Item a-9, of the section titled *First Arriving Supervisors Checklist for Deadly Force or In-custody Death* reads: "Assign an uninvolved member to drive each involved member. Witness members may drive themselves. Whenever practical, each involved member and witness member should be transported in a separate vehicle"

The Bureau also agrees that ideally, the transportation would be done by a supervisor or detective. However, PPB does not have the staffing levels at the supervisory position to ensure that this is done.

Also mentioned in the 2005 status reply, the PPB does have strict communications prohibitions, as codified in 1010.10 under *Communication Restriction Order*.

Reference:

Bureau Directive 1010.10

Workgroup Comment: although the Bureau rejected the recommendation, it seems that it is following the spirit of the recommendation by separating partners and having Traumatic Incident Committee (TIC) members do the transport. Bureau members, at the time of the incident, are issued communication restriction orders.

Recommendation 2005.5: PPB procedures should require (a) that a supervisor and sufficient cover officers be present before members try to extract an apparently unarmed person from a vehicle, and (b) that tactics calculated to protect the safety of both the officers and the occupant of the vehicle be employed.

PPB rejected this recommendation in a 2005 response written by Chief Foxworth:

We disagree with the requirement to have a supervisor present. While having a supervisor present is desirable, it is unreasonable to expect that all vehicle extractions would require a supervisor to be present or that one would be available.

We currently have two sergeants assigned to a shift. We thoroughly train our officers on vehicle extraction methods, cover, and high risk stop tactics. Training discourages solo officers from extracting individuals from vehicles. Depending on circumstances, we want to leave some discretion and judgment to the officer on scene. The officer's experience, training and circumstances provide the ability to make an informed decision at the time. Directive 1010.20 includes language on extracting individuals from vehicles and the 2004-05 in-service training included tactics on extracting individuals from vehicles.

2008 Bureau Response:

The PPB agrees that ideally, a supervisor should be present before members forcibly extract a suspect from a vehicle. Due to staffing limitations, we cannot ensure that this will always be possible. The Training Division works diligently, however, to ensure that all officers know and can properly employ the correct tactics which are designed to protect the safety of the officers and the suspect.

During the 2004 Operations Branch In-Service, Training Division Defensive Tactics instructors taught a hands-on block of instruction regarding the extraction of cooperative and uncooperative subjects from vehicles.

Reference:

2004 Operations Branch Defensive Tactics lesson plan (*Editor's Note: Lesson plans were reviewed by the Workgroup, but are not included in the Appendix.*)

Workgroup Comment: see CRC Recommendation 2010.2 – The Bureau should edit its directives to state that a cover officer or supervisor should be present before a member attempts to forcibly extract a subject from a vehicle unless they are unavailable or exigent circumstances require immediate action.

Recommendation 2005.6: The PPB should develop a policy that prohibits it from responding to routine patient management situations in mental health facilities, and the Bureau should advise all mental health providers in the City of Portland of that policy.

Bureau Response:

Directive 850.25, Police Response to Mental Health Facilities, clearly defines the responsibilities of PPB officers in response to patient management situations in mental health facilities. This directive was developed in coordination with the Multnomah County Mental Health and Addiction Services agency. Directive 850.25 distinguishes between Routine/Urgent/Emergency calls, making it clear that the role of the PPB is limited to only Emergency level calls.

Reference:

Bureau Directive 850.25

Workgroup Comment: item complete. Also see the section of Directive 825.20 titled Assisting Hospitals with Mentally Ill Patients and Walk-aways and the Partnership Agreement on Mental Health Secure Residential Treatment Facilities in the Appendix.

Recommendation 2005.7: The PPB should clarify its policies relating to medical attention and rendering aid to make clear that officers who have used deadly force are required to ensure that medical aid is rendered to injured persons as soon as possible, unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel.

Bureau Response:

Officers are trained and certified in CPR per DPSST standards.

Directive 1010.10 includes a section titled *Post Use of Force Medical Attention*, which includes the monitoring of the subject's status. This also includes and points officers to Directive 630.50 for further required action. Directive 630.50 requires officers to give medical aid. Lastly, directive 1010.20 also includes the provisions of monitoring and rendering aid when needed. The directives are not mutually exclusive; they work in tandem to provide the monitoring and medical aid to subjects when needed.

References:

Bureau Directives 630.50, 1010.10, and 1010.20

Workgroup Comment: see CRC Recommendation 2010.3 – PPB should edit policy to ensure medical aid is rendered “as soon as possible unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel.”

Recommendation 2005.8: The PPB should promulgate the policies and procedures necessary to require in all instances of the use of deadly force where a person is seriously injured: an Internal Affairs administrative investigation, and an explicit determination by the Use of Force Review Board, as to whether there was compliance with the policies for ensuring that medical aid is appropriately and timely rendered.

Bureau Response:

Internal Affairs Division SOP D-02 requires that Internal Affairs conducts an administrative investigation of all officer involved shootings, as well as when serious injury is caused by an officer that requires hospital admission. During the normal course of the standard review process, investigators consider the issue of providing medical assistance, and if appropriate, note the issue in the Internal Affairs Division summary report.

This is also a standard issue covered during the Use of Force Review Board process, and if an Internal Affairs investigation fails to look into it, the Board members would review the issue or refer it back to Internal Affairs for further investigation.

References:

IAD SOP D-02 Use of Force and In-Custody Deaths
Bureau Directives 630.50, 1010.10, and 1010.20

Workgroup Comment: see CRC Recommendation 2010.4 – Use of Force Review Boards should routinely and by policy address if medical aid was appropriately and timely rendered.

Recommendation 2005.9: Supervisors in the Detective Division should review the work done by investigators to ensure that deadly force cases are appropriately investigated, and the results are properly documented.

Bureau Response:

The compilation of the Detective notebooks has improved significantly since the 2003 review, as was noted in PARC's 2006 follow-up. Largely, this has been due to the increased role of supervisors in the Detective Division of ensuring the binders' completeness and accuracy. Directives 335.00 and 336.00 clearly define the roles of supervisors in this regard. Directive 1010.10 also outlines the Detective Division Homicide Detail Responsibilities, which include completion of the investigative report. It is the stated duties of the Homicide Detail Sergeant to "Ensure the appropriate checklists are used and case notebooks are prepared." The checklists found in both Appendix A and Appendix B of Detective Division SOP 37 serves as guidelines which ensure that each scene is properly processed, and each interview is conducted properly. The lieutenant and the commander of the division also review the completed checklist for thoroughness and accuracy.

References:

Bureau Directives 335.00, 336.00, and 1010.10
Detective Division SOP 37 (with Appendices A and B)

Workgroup Comment: item complete.

Recommendation 2005.10: The PPB should adopt procedures requiring (a) that deadly force investigations be led by an officer of a rank equal to or greater than the rank of the most senior officer playing a role in an incident, and (b) that interviews of witness officers of command rank be conducted by, or in the presence of, an officer of at least equal rank to the member providing evidence.

Previous Status Update (circa 2005):

We consider this recommendation completed. We have adopted this procedure and it is included in the Detectives' SOP #37. Internal Affairs added this procedure to their SOPs.

2008 Bureau Response:

Detective Division SOP 37 Officer Involved Shootings states the following under Section III, Procedure: "*Deadly force investigations will be lead by a member of rank equal to or greater than the witness or involved members*" and "*Interviews of witness or involved members of command rank will be conducted by, or in the presence of, a member of equal or greater rank to the member being interviewed.*"

Reference:

Detective Division SOP 37

Workgroup Comment: item complete.

Recommendation 2006.1: Policy 940.00(b) should be amended to require that the after action report in officer-involved shooting and in-custody death cases should be completed within 14 days of receipt by the unit commander of the files of the Homicide, Training, and Internal Affairs investigations of that case. Policy 335.00 should be amended to make explicit the relationship between the after action report and the unit commander's findings in Force Board cases.

Bureau Response:

Per the *Directive Specific Definitions* in Directive 940.00, an After Action Report is "A narrative report that describes a police action and assesses its effectiveness through critique and evaluation using required criteria."

These After Action Reports are not related to the report written by the unit commander during the Officer Involved Shooting and In-Custody Death review process. The unit commander's findings in these cases are called the "Commanders Findings," and are not written until after the Training and IA divisions have completed their review.

The unit commander has 21 days to complete the analysis, as required by Directive 335.00. In an effort to standardize the analysis, the PPB is in the process of developing a Commander's Finding model, a draft version of which is in the Appendix.

Note: Directive 940.00 was revised for the 2009 Manual of Policy and Procedure. Language was added to clarify that firearm discharge not in the performance of a police action requires an After Action Report, while referring to Directives 1010.10 and 335.00 for reporting requirements for the use of deadly force during a police action.

References:

Bureau Directives 940.00 and 335.00
Commander's Findings shooting review template

Workgroup Comment: although the PARC recommendation refers to 940.00 - After Action Reports, the Bureau's policy for deadly force cases and in-custody deaths is actually contained in Directive 335.00. The Bureau's response highlights PARC confusion about after action reports and commander findings, though the language added to Directive 940.00 may help in future reviews. After action reports are compiled in cases where a firearm is discharged outside the performance of a police action, and they are due within seven days. Directive 335.00 explicitly states that commander's findings are due within 21 day in deadly force cases (see RU Manager Responsibilities on page 5 of the Appendix version of 335.00).

Recommendation 2006.2: Starting with the next appointments or reappointments, the PPB should make public the names of the citizens who are members of the Force and Performance board pools.

Bureau Response:

This recommendation has been followed and the names of the board members were released by the bureau's Public Information Officer June 26, 2008. Directive 335.00 was updated to reflect this requirement. Line 5 on page 2 of the Appendix version reads "The names of citizen members serving in the pool will be made public."

Reference:

Bureau Directive 335.00

Workgroup Comment: item complete.

Recommendation 2006.3: The PPB should provide a comprehensive orientation to the present and future peer members of the Force Board.

Bureau Response:

Currently, an orientation is given to Peer and Civilian Board Members prior to each board hearing by the Assistant Chief of Services Branch. The Use of Force Review Board Coordinator is preparing and scheduling training for board members in February of 2009. Directive 335.00 includes the requirement that board members receive a comprehensive orientation (see line 11 on page 2 of the Appendix version).

Reference:

Bureau Directive 335.00

Workgroup Comment: item complete. Training for both citizen and peer members was delayed, but held on January 26th, 2010.

Recommendation 2006.4: The PPB, with input from the PPA and the superior officers' association, should draft a fact sheet that sets forth the procedures of the Force Board that directly affect an involved member before, during, and after a Force Board presentation and should include that fact sheet with the invitation to the involved member to attend the proceeding. The PPB should adopt standardized language for requesting the member's statement before the Force Board and should advise involved members' of that language in the fact sheet.

Bureau Response:

The Appendix includes a copy of the fact sheet that involved officers receive together with their invitation to appear. The fact sheet covers the procedures affecting the involved officer before, during, and after the Force Board presentation, including how the officer would be asked before the Board to make a statement.

Reference:

Force Board Fact Sheet

Workgroup Comment: see CRC Recommendation 2010.6 – The Bureau should collaborate with key stakeholders to develop a dedicated Administrative Rule or Standard Operating Procedure detailing the Review Board process. Among other issues, the new policy should address how officer testimony is requested, responsibilities of members, advisors, and the Chair, and specific voting procedures.

Also see CRC Recommendation 2010.7 – PPB should contract with a hearings officer or administrative law judge to chair and facilitate all Review Board meetings.

Recommendation 2006.5: PPB policy should require that Internal Affairs, as part of its administrative investigation of deadly force incidents, interview the involved officers, unless Homicide's investigation has covered all appropriate issues relating to policy, training, and tactics.

Bureau Response:

This recommendation is followed with:

- 1) Lines 33-34 on page 4 of the Appendix version of Directive 335.00, which read "IAD should interview the involved member unless the Detective Division's investigation covered all appropriate issues relating to policy, training and tactics."
- 2) The section of Directive 1010.10 titled *Detective Division Homicide Detail Responsibilities*, which states that homicide detail will be responsible for "Interviews of involved members and supervisors" (item 5).
- 3) The section of Directive 1010.10 titled *Detectives Responsibilities*, which states that detectives will "Conduct interviews of all witnesses and involved members and use the interview checklists, ensuring all applicable areas are covered" (item b).

References:

Bureau Directives 335.00 and 1010.10

Workgroup Comment: while the Bureau met the 2006 recommendation, PARC made an additional recommendation in its 2009 report (see Recommendation 2008.8 in the Appendix), which would expand the scope of the IAD interview process beyond what is currently required. This expanded scope would include a re-interview of key civilian and officer witnesses to officer-involved shootings unless Homicide's investigation has covered all appropriate issues relating to policy, training and tactics. The Workgroup concurs with this recommendation and anticipates further refinement of Directive 335.00.

Recommendation 2006.6: The PPB should notify Force Board members of the final outcomes of cases in which they participate.

Bureau Response:

This recommendation is followed with the revision of Directive 335.00. Lines 3-4 on page 4 of the Appendix version state the Review Board Coordinator will "Notify the Board members of the final decision by the Chief of Police of those cases heard by the members."

Reference:

Bureau Directive 335.00

Workgroup Comment: this language is also in Directive 336.00, which covers Performance Review Boards, and complies with the intent of the recommendation. However, the Bureau generally presents this information in an annual summary to all boards members rather than providing specific (and more timely) feedback to individuals on cases in which they participated on the Review Board. Also, the Workgroup has some concern about overall coordination. While there was previously one Review Board Coordinator, the duties are now shared by two or three individuals with numerous other assignments and primary roles.

Recommendation 2006.7: The PPB should set individual stage and case-long benchmarks so that, barring good cause, Force Board hearings will be conducted within six months of the incident.

Bureau Response:

We continue to develop mechanisms to better coordinate our work in order to improve timeliness. We are, however, doubtful that we can reach the six month benchmark identified by PARC given the investigators are also responsible for investigating all internal affairs cases.

The PPB still remains dedicated, however, to reducing the time frame of these cases as much as possible. To maintain abreast of active cases, every Monday PPB Commanders receive automatically generated updates of currently open Officer-involved Shooting and In-custody Death cases.

Whenever it is possible, Commander's use this information to push these cases to be completed quickly and completely.

Maximum Allowable Timeline, as stated in Directive 335.00:

Event	Day 0
Grand Jury (median noted by PARC)	Day 11
<i>Detective Investigation (30 days)</i>	
IT/Training Receive Cases	Day 41
<i>Detective/Training/IA coordination period (14 days)</i>	
<i>Training/IA concurrent investigations (42 days)</i>	
Training/IA Completes Investigation	Day 97
Sent to Unit Commander (should happen as soon as investigation completed).	
RU Review (21 days*)	Day 119
Commander's Review (7 days**)	Day 127
Force Board Hearing (21 days from RU review to select a date)	Day 148

*if more time is required, an explanation must be sent to the Assistant Chief

**the chief can also send the file back to the RU

Relevant Timeline Details, as stated in Directive 335.00:

- 1) The involved member has at least 14 days to review the case file before the UFRB meeting. (page 3, lines 17-18)
- 2) The Review Board Coordinator will:
 - a) within 21 days of receiving of the RU Manager's analysis and proposed findings from the Branch chief, select a date to convene the UFRB. (page 3, lines 33-34)
 - b) notify the involved member of the date and time of the UFRB at least 14 days prior to the UFRB meeting. (page 3, lines 40-41)
- 3) The Detective Division will have:
 - a) 30 days from the conclusion of the Grand Jury proceedings or decision by the District Attorney to complete the investigative case notebook. (page 4, lines 13-21)
 - b) two weeks after distributing the case notebooks, to meet with members of the Internal Affairs and Training Divisions to discuss areas to be reviewed and presented at the UFRB. (page 4, lines 22-24)
- 4) The Training Division will have:
 - a) two weeks to review the case notebook and meet with representatives of the Internal Affairs and Detective Divisions. (page 4, lines 42-46)
 - b) six weeks to complete its analysis. (page 5, lines 1-6)

- 5) The Internal Affairs Division will have:
 - a) two weeks to review the case notebook and meet with representatives of the Training and Detective Divisions. (page 4, lines 28-31)
 - b) six weeks to complete its analysis. (page 4, lines 32-34)
- 6) The RU Manager will review all case files and prepare an analysis and proposed findings for the Branch chief within 21 days.
- 7) The Branch Chief will have seven days to either send the case file back to the RU manager for further analysis, concur with the analysis, or prepare a supplemental analysis with proposed findings.

Reference:

Bureau Directive 335.00

Workgroup Comment: see CRC Recommendation 2010.8 – The Bureau should develop a timeline checklist to accompany each officer-involved shooting or in-custody death case, use current baselines to set reasonable timeliness targets, manage resources to adequately meet timelines, and track results.

Recommendation 2006.8: Barring medical necessity, involved members should be limited to being accompanied in their appearance before the Force Board to a union representative or an attorney.

Bureau Response:

Updated Directive 335.00 specifies "Involved Members' Responsibilities," which is also considered their "Rights." Lines 22-25 on page 3 specify that only in the case of medical necessity is it permitted for the involved member to be accompanied by anyone other than a bargaining unit representative or an attorney.

Reference:

Bureau Directive 335.00

Workgroup Comment: item complete.

Recommendation 2006.9: The PPB should redraft Section 335.00 so as to remove the inconsistencies and lack of clarity in the present provision.

Bureau Response:

Since the 2006 PARC follow-up, Directive 335.00 has been revamped to improve clarity and remove all inconsistencies. As PARC suggested, Directive 336.00 was formulated, separating the sections for the two distinct review boards - Force and Performance.

PARC had 11 bullet-pointed concerns:

Because the Policy Manual does not divide its sections into numbered subdivisions and paragraphs, but rather uses only subject headings to divide up sections that sometimes run for many pages (Section 335.00, for example, is 10 pages long), there is no clear structural framework to policy provisions, thus making the possibility of gaps or conflicts more likely.

Bureau Response: Not Completed. Directives 335.00 and 336.00 do not have numbered sub-sections, as they follow the same format as all other Bureau Directives, which do not have numbered sub-sections.

Workgroup Comment: the Bureau has since indicated that it is currently renumbering its Directives. The Workgroup strongly supports this effort. Testimony was presented both by Bureau personnel and the public about the lack of numbered subsections making misunderstandings more likely. This has been a common source of frustration for years.

The review to be conducted by the Training Division is provided for under the heading “The Bargaining Units’ Responsibilities.” These provisions seem to require that the Training Division review the file after the involved member and his representative have reviewed the case file. But both logic and the actual practice dictate that the Training review happen far earlier, while Internal Affairs is doing its investigation.

Bureau Response: Completed. This is the current practice, as codified in 335.00 (page 4 - line 41 through page 5 - line 6 in the Appendix version).

Workgroup Comment: item complete.

The heading “The Bargaining Units’ Responsibilities” and the heading “Use of Force Review Board Procedures” contain parallel and almost entirely duplicative provisions about Internal Affairs’ responsibilities.

Bureau Response: Completed.

Workgroup Comment: item complete. Bargaining Units’ Responsibilities has been deleted and provisions now detailed in 335.00, IA Manager Responsibilities, lines 27-39 on page 4 of the Appendix version.

Under the heading “The Bargaining Units’ Responsibilities” and under the subheading “Branch chief review,” the unit commander is given 21 days to review the file and make a finding. But under the heading “RU Manager Responsibilities (or his/her designee),” the unit commander is given 14 days to make a finding.

Bureau Response: Completed. The RU Commander has 21 days to prepare an analysis and proposed findings for all UFRB incidents received by the RU manager.

Workgroup Comment: RU Manager Responsibilities have been clarified with the revision of 335.00 (see lines 8-14 on page 5 of the Appendix version).

Under the heading “The Bargaining Units’ Responsibilities” and under the subheading “Branch chief review,” the Assistant Chief is instructed to review the file and then to forward it to Internal Affairs. This provision does not allow the Assistant Chief to take any action other than reviewing the file and passing it along. But under the heading “Branch Chief Responsibilities (or his/her designee),” the Assistant Chief is given detailed instructions as to what to do if s/he agrees with the unit commander’s recommended finding and discipline, and no instructions as to what to do if s/he either disagrees with the unit commander’s recommended finding or discipline, or if the unit commander makes no recommendation for discipline. Under the latter heading, the Assistant Chief is further instructed that if his/her determination is to seek less than a suspension, the case is to be sent back to the unit commander for discipline, and apparently no Force Board will be convened.

Bureau Response: Completed. Directives 335.00 and 336.00 each have their own sections entitled “Branch Chief Responsibilities,” which clearly define the appropriate actions of the Branch Chief in regards to the Use of Force Review Board or Performance Review Board processes respectively. These sections covers both situations in which the Branch Chief agrees and disagrees with the analysis (see lines 16-27 on page 5 of the Appendix 335.00 and lines 18-24 on page 3 of 336.00).

Workgroup Comment: item complete. The ‘Bargaining Unit Responsibilities’ has been deleted and language clarified in Branch Chief Responsibilities of 335.00 and 336.00.

“Deliberations and voting” are provided for without any elaboration under “Affected Members’ Responsibilities.” Because the provisions about “affected” members and “deliberations and voting” come at the end of all the specific Performance Review Board provisions and before any of the specific Force Board provisions, a fair reading of the section leaves one in doubt as to whether these provisions apply to Force Boards or only to Performance Boards.

Bureau Response: 335.00 and 336.00 do not specify when the voting takes place.

Workgroup Comment: issue somewhat clarified with the policy revisions. The Board Member and UFRB Chair Responsibilities provide some basic details, but as noted – they do not specify when voting takes place. Even less information is provided in 336.00.

See CRC Recommendation 2010.6 – The Bureau should collaborate with key stakeholders to develop a dedicated Administrative Rule or Standard Operating Procedure detailing the Review Board process. Among other issues, the new policy should address how officer testimony is requested, responsibilities of members, advisors, and the Chair, and specific voting procedures.

The same placement problem applies to the provisions relating to “Chief of Police’s Responsibilities.” Do those provisions apply only to Performance Boards, as the section’s structure suggests? If so, the Chief of Police has no stated role or responsibilities after a Force Board review.

Bureau Response: Completed. See Chief of Police’s Responsibilities in 336.00

Workgroup Comment: issue clarified with revisions of 335.00 and 336.00. The Chief of Police’s Responsibilities now appear as the last section in both polices.

It is unclear what an “affected” member is. The first paragraph of the “Affected Members’ Responsibilities” subdivision refers to an “involved” member, which is a term defined in Section 335.00. How an “affected” member differs from an “involved” member is not explained. Also, under the heading “Use of Force Review Board Procedures,” the term “suspect” member is used. “Suspect” in this context seems an inappropriate substitute for “involved.”

Bureau Response: Completed. In Directives 335.00 and 336.00, the terms “affected” and “suspect” member have been removed. All relevant references include the term “Involved” member.

Workgroup Comment: item complete. Term “suspect” has been removed and a distinction is made between “Witness” and “Involved” members in the Directive Specific Definitions (see page 1, lines 31-32 for 335.00; page 1, lines 26-28 for 336.00).

Under the heading “Review Board Coordinator Responsibilities,” the Force Board is to be convened “as soon as it is reasonably possible to do so,” but only in cases where the involved member is facing a suspension or more serious punishment. Under the heading “The Bargaining Units’ Responsibilities,” however, the Force Board is to be convened within 21 days.

Bureau Response: Completed. Under Review Board Coordinator Responsibilities, the Coordinator will select a date to convene the Board within 21 days.

Workgroup Comment: the PARC recommendation does not clearly present a timeline and merely points out the inconsistency between two portions of PPB policy. The new policy now states that the Review Board Coordinator will select a date to convene the Board within 21 days (see page 3, lines 33-34 for 335.00; page 2, line 45 for 336.00).

Accurate information on the progress of a case through the Review Board system has proven difficult for the Bureau to capture. From the limited data available, cases seem to take far longer at various stages than policy suggests. See CRC Recommendation 2010.8 – the Bureau should develop a timeline checklist to accompany each officer-involved shooting or in-custody death case, use current baselines to set reasonable timeliness targets, manage resources to adequately meet timelines, and track results.

Under the heading “The Bargaining Units’ Responsibilities,” the involved member and his/her representative are twice given 14 days to review the file. Following the second of these duplicative provisions, the Internal Affairs commander is told to review any discrepancies alleged by the involved member and then to send the case to the unit commander for findings. But under “Use of Force Review Board Procedures” and actual practice, the Internal Affairs commander is supposed to send the file to the unit commander for findings and the after action report well before the involved member reviews it.

Bureau Response: Completed. The directives state that the involved member has 14 days to review the case file. This happens upon receipt of the RU Manager’s analysis and proposed findings from the Branch chief.

Workgroup Comment: an involved member is given 14 days to review file before a UFRB or PRB hearing. Language regarding discrepancies has been deleted. The Review Board Coordinator is tasked with facilitating the member’s review of the case file after the RU manager’s analysis and findings (see page 3, lines 40-41 for 335.00; page 3, lines 1-2 for 336.00).

Although one or more representatives of the involved member's bargaining unit have been allowed in practice to witness the Force Board presentations, the policy does not authorize the presence of union representatives. The policy should be amended to provide for the presence of one representative of a bargaining unit of the involved member(s) and should make clear whether they may be present for the entire presentation or solely when the involved members are presenting.

Bureau Response: Completed. The Directives state that "during the presentation of the case there may also be representatives from the bargaining unit."

Workgroup Comment: clarified to some degree under Involved Members' Responsibilities (Rights) in 335.00 and 336.00. It is assumed that the bargaining unit representative may remain with the Involved Member until executive session.

Recommendation 2006.10: In addition to submitting full written findings to the Chief related to each determination it makes (and to each minority position, if any), the Force Board should document not only each determination it makes but also which members voted for or against that determination, or abstained.

Bureau Response:

The PPB agrees that providing the Chief with an explanation of the main points of agreement (or disagreement) among Board members is important to ensure that the Chief makes the best possible decision. Directive 335.00 requires the Use of Force Review Board Chair to provide the Chief of Police with a written description of the majority and minority opinions of the Use of Force Review Board (see page 5, lines 29-31).

The PPB does not agree that each board members personal determination be recorded. The PPB believes that a loss of anonymity would make it much more difficult for Board members, particularly Peer members, to weigh the facts of the case objectively.

Reference:

Bureau Directive 335.00

Workgroup Comment: see CRC Recommendation 2010.7 – PPB should contract with a hearings officer or administrative law judge to chair and facilitate all Review Board meetings.

Currently, the opinion of members in the minority is summarized by the Chair and not written by a minority representative or neutral observer. The Workgroup has the expectation that the briefing memo to the Chief of Police contains fair representation of all opinions in the case – including detailed statements of minority and majority positions and any significant trends in voting by peer or citizen members. However, a better overall approach might include having the hearings officer or administrative law judge recommended to facilitate all Review Board Meetings also write the Chief's briefing memo.

Recommendation 2006.11: The PPB should periodically conduct anonymous surveys of the peer and citizen Force Board panel members to evaluate the process. Particular emphasis should be placed on eliciting peer members' views on their ability and willingness to express candid opinions and to vote in accordance with their best judgment.

Bureau Response:

The PPB conducted its first anonymous survey of peer and citizen Force Board panel members, having completed one survey (as of mid-2008). Over 90% of citizen members who responded answered "yes, completely" in response to questions regarding whether they felt free and able to express candid opinions and vote according to their best judgment.

Overall results show that both peer and citizen members feel free to express their opinions, ask questions, and vote according to their best judgment during the process.

Reference:

Citizen Member and Peer Member Survey

Workgroup Comment: item complete.

Recommendation 2006.12: Files on cases going to the Force Board should be thoroughly indexed, particularly if the files are larger than average.

Bureau Response:

The Detective Notebooks, consisting of the vast bulk of the material provided to the Use of Force Review Board, is fully indexed and contains a table of contents. A model Table of Contents is available in the Appendix.

Once the detective notebooks are complete and move forward in the process, the following documents are added to the case notebook:

- 1) Training Division analysis
- 2) Internal Affairs Division investigation and report
- 3) Commander's proposed findings and analysis

Reference:

Model Detective Notebook Table of Contents

Workgroup Comment: item complete.

Recommendation 2006.13: The PPB should further emphasize scenarios in academy and in-service training that help officers weigh the types of risks in dangerous situations, the availability and desirability of additional resources, and the types of exigent circumstances that would influence each tactical alternative.

Bureau Response:

The PPB Training division is constantly working to upgrade the quality of its training, and often utilizes scenario techniques in doing so. Examples include recent supervisor training in Critical Incident Management, where supervisors are able to apply the concepts in scenarios and table top exercises. Scenarios are also used in training for vehicle pursuits. Pursuit scenarios involving role players were also used extensively during the 2008 Police Vehicle Operations In-service Training conducted at Portland International Raceway.

Other scenario based training is conducted at the Advanced Academy where communications skills, officer safety, and survival skills are taught during Patrol Tactics training. This scenario based training was increased during the 2008 in-service session.

References:

2008 Sergeants Academy Critical Incident Management training course Lesson Plan
2008 Police Vehicle Operations In-service Lesson Plan
2008-2 Advanced Academy Patrol Tactics Lesson Plan

Workgroup Comment: the Training Division revised their curriculum in coordination with DPSST to eliminate duplicate training and made efforts to start scenario-based training earlier in the advanced academy rather than the last two weeks. New curriculum took effect in January 2009. Officers will be trained under stress to make good decisions.

See CRC Recommendation 2010.9 – City Council should provide adequate resources for scenario-based training of PPB officers and supervisors.

Recommendation 2006.14: The PPB should foster a culture and provide options that encourage sergeants dealing with critical situations to seek advice when they believe it will be useful and should help develop user-friendly mechanisms for sergeants to promptly obtain advice when a supervising lieutenant is not readily available.

Bureau Response:

Newly promoted sergeants attend a two-week sergeants' academy. The end of the academy involves scenario based training to include tactical scenarios. This training cultivates an environment that leads the supervising sergeant to seek help from a variety of sources. This training model fosters the environment of advice seeking whether it be from their lieutenant who might be on a day off, from a lieutenant from another precinct, or from another higher ranking member of the bureau.

Workgroup Comment: the Workgroup encourages the Bureau to provide options that encourage sergeants to seek advice, and challenges City Council to provide adequate funding for such training.

Recommendation 2006.15: The PPB should study whether the benefits of using East County Major Crimes Team investigators on deadly force cases outweigh the liabilities of using those detectives. If the PPB decides to continue the relationship, it should develop improved accountability mechanisms and training for non-PPB personnel.

Bureau Response:

The PPB continuously tries to improve our working relationship with outside agencies. We have worked closely with East County Major Crimes Team (ECMCT) on not only PPB Use of Force and shootings, but on joint homicide investigations. The last joint training conducted was in the fall of 2007 (as of late 2008). Two PPB members gave a presentation to the entire ECMCT on Officer Involved investigations and procedures. They have also sent out new ECMCT supervisors to shadow PPB investigators on these types of cases.

Workgroup Comment: the Workgroup appreciates the Bureau rejecting this recommendation on the basis that peer review, transparency, and independence are important values. The Workgroup feels that some of these goals could be enhanced if an independent oversight mechanism existed for officer-involved shootings and in-custody deaths.

See CRC Recommendation 2010.10 – City Council should expand the role and authority of IPR in officer-involved shootings and in-custody deaths – including the ability to conduct independent investigations of these cases as needed. The expanded authority should also include monitoring roles such as oversight of the crime-scene procedures, evidence collection and preservation, witness identification and interviewing, investigative file integrity, and presentation of evidence at Review Boards.

Recommendation 2006.16: The PPB should enact a policy that provides that involved and witness members may not become TIC or Peer Support members in an incident where they were involved in the use of deadly force or were a witness. The PPB should ensure that EAP changes its rules and policies to forbid such conflicts.

Bureau Response:

The Employee Assistance Program Manual (under EAP Activations, heading Deadly Force, last paragraph) states:

"TIC members who are directly involved in a traumatic incident, including witness members, will not act in an EAP capacity. At all times members should make sure the EAP Coordinator is notified."

The manual was revised in February 2008.

References:

Employee Assistance Program Manual (select pages)

Workgroup Comment: item complete.

Appendix

Appendix Index

PARC Recommendations

New Recommendations in 2005 PARC Report

New Recommendations in 2006 PARC Report

Other Recommendations Referenced in this Review

Bureau Directives

335.00 - Use of Force Boards (with added numbering)

336.00 - Performance Review Boards (with added numbering)

630.50 - Emergency Medical Aid

850.20 - Mental Health Crises Response

850.25 - Police Response to Mental Health Facilities

940.00 - After Action Reports and Operation Orders

1010.10 - Deadly Physical Force

1010.20 - Physical Force

Standard Operating Procedures (SOPs)

Training Division SOP #1-11 - Reviews for the Performance and Use of Force Boards

Detective Division SOP 37 - Detective Division and Homicide Detail Response to Officer Involved Shootings, Officer Use of Deadly Physical Force, and In-Custody Deaths (with SOP 37 Appendices A and B).

Internal Affairs Division SOP D-02 - Use of Force and In-Custody Deaths

Other Documentation

Commander's Findings Shooting Review Template

Sample Commander's Findings Shooting Review

Employee Assistance Program Manual (select pages)

Force Board Fact Sheet

Citizen Member and Peer Member Survey

Model Detective Notebook Table of Contents

Partnership Agreement on Mental Health Secure Residential Treatment Facilities

New Recommendations in 2005 PARC Report

Recommendation 2005.1: The PPB should set a firm deadline for making its early intervention system operational and should prioritize its resources so as to ensure meeting that deadline.

Recommendation 2005.2: The PPB should promptly draft procedures to govern the administrative investigations by the Training Division concerning officer-involved shootings, in-custody deaths, and injuries resulting in hospitalization, and it should supplement its procedures for such investigations by the Internal Affairs Division so that they are at least as thorough as its procedures for misconduct investigations.

Recommendation 2005.3: PPB policy should make clear that administrative investigations of in-custody deaths and uses of force resulting in hospitalization are mandatory by eliminating the contradictory provisions from Section 335.00 that make them discretionary.

Recommendation 2005.4: PPB policy should prohibit involved officers from being transported by their assigned partners and should require, when feasible, that the transportation be done by a supervisor or a detective.

Recommendation 2005.5: PPB procedures should require (a) that a supervisor and sufficient cover officers be present before members try to extract an apparently unarmed person from a vehicle, and (b) that tactics calculated to protect the safety of both the officers and the occupant of the vehicle be employed.

Recommendation 2005.6: The PPB should develop a policy that prohibits it from responding to routine patient management situations in mental health facilities, and the Bureau should advise all mental health providers in the City of Portland of that policy.

Recommendation 2005.7: The PPB should clarify its policies relating to medical attention and rendering aid to make clear that officers who have used deadly force are required to ensure that medical aid is rendered to injured persons as soon as possible, unless the circumstances clearly demonstrate that to do so would unreasonably endanger the officers or the medical personnel.

Recommendation 2005.8: The PPB should promulgate the policies and procedures necessary to require an administrative investigation by Internal Affairs and a explicit determination by the Use of Force Review Board as to whether there was compliance with the policies for ensuring that medical aid is appropriately and timely rendered, following the use of deadly force and whenever a person is seriously injured.

Recommendation 2005.9: Supervisors in the Detective Division should review the work done by investigators to ensure that deadly force cases are appropriately investigated, and the results are properly documented.

Recommendation 2005.10: The PPB should adopt procedures requiring (a) that deadly force investigations be led by an officer of a rank equal to or greater than the rank of the most senior officer playing a role in an incident, and (b) that interviews of witness officers of command rank be conducted by, or in the presence of, an officer of at least equal rank to the member providing evidence.

New Recommendations in 2006 PARC Report

Recommendation 2006.1: Policy 940.00(b) should be amended to require that the after action report in officer-involved shooting and in-custody death cases should be completed within 14 days of receipt by the unit commander of the files of the Homicide, Training, and Internal Affairs investigations of that case. Policy 335.00 should be amended to make explicit the relationship between the after action report and the unit commander's findings in Force Board cases.

Recommendation 2006.2: Starting with the next appointments or reappointments, the PPB should make public the names of the citizens who are members of the Force and Performance board pools.

Recommendation 2006.3: The PPB should provide a comprehensive orientation to the present and future peer members of the Force Board.

Recommendation 2006.4: The PPB, with input from the PPA and the superior officers' association, should draft a fact sheet that sets forth the procedures of the Force Board that directly affect an involved member before, during, and after a Force Board presentation and should include that fact sheet with the invitation to the involved member to attend the proceeding. The PPB should adopt standardized language for requesting the member's statement before the Force Board and should advise involved members' of that language in the fact sheet.

Recommendation 2006.5: PPB policy should require that Internal Affairs, as part of its administrative investigation of deadly force incidents, interview the involved officers, unless Homicide's investigation has covered all appropriate issues relating to policy, training, and tactics.

Recommendation 2006.6: The PPB should notify Force Board members of the final outcomes of cases in which they participate.

Recommendation 2006.7: The PPB should set individual stage and case-long benchmarks so that, barring good cause, Force Board hearings will be conducted within six months of the incident.

Recommendation 2006.8: Barring medical necessity, involved members should be limited to being accompanied in their appearance before the Force Board to a union representative or an attorney.

Recommendation 2006.9: The PPB should redraft Section 335.00 so as to remove the inconsistencies and lack of clarity in the present provision.

Recommendation 2006.10: In addition to submitting full written findings to the Chief related to each determination it makes (and to each minority position, if any), the Force Board should document not only each determination it makes but also which members voted for or against that determination, or abstained.

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Recommendation 2006.14: The PPB should foster a culture and provide options that encourage sergeants dealing with critical situations to seek advice when they believe it will be useful and should help develop user-

friendly mechanisms for sergeants to promptly obtain advice when a supervising lieutenant is not readily available.

Recommendation 2006.15: The PPB should study whether the benefits of using East County Major Crimes Team investigators on deadly force cases outweigh the liabilities of using those detectives. If the PPB decides to continue the relationship, it should develop improved accountability mechanisms and training for non-PPB personnel.

Recommendation 2006.16: The PPB should enact a policy that provides that involved and witness members may not become TIC or Peer Support members in an incident where they were involved in the use of deadly force or were a witness. The PPB should ensure that EAP changes its rules and policies to forbid such conflicts.

Other Recommendations Referenced in this Review

Recommendation 2008.8 (from PARC's 2009 report): The PPB should require that Internal Affairs re-interview key civilian and officer witnesses to officer-involved shootings, unless Homicide's investigation has covered all appropriate issues relating to policy, training, and tactics.

On page 23 of its 2009 report, PARC states: "We continue to advocate full implementation of **Recommendation 2005.7**. Specifically, the Bureau should amend its policy such that officers are required to render aid *as soon as possible*, unless providing such aid would unreasonably endanger the officers or medical personnel providing such aid. Such a formulation is stronger and more specific than current policy that, per the 2003 change, instructs officers to render aid *at the earliest time feasible*. 'Feasibility' is an unclear and imprecise threshold for officer provision of medical aid."

Recommendation 5.15 (from PARC's 2003 report): The City of Portland should create an independent, professionally staffed, and adequately funded mechanism for civilian oversight of PPB investigations of administrative issues and analyses of tactical decisions arising out of officer-involved shootings and in-custody deaths. At a minimum the oversight mechanism would monitor:

- (a) Crime scene processes and procedures (this would involve rolling out to the scenes of officer-involved shootings and in-custody deaths);
- (b) Evidence collection and preservation;
- (c) Witness identification and interviewing;
- (d) Investigative file integrity and preservation; and
- (e) Presentation of evidence to the Review Level Committee.

The recommendation is first listed on page 127 of the 2003 report, with a lead-in discussion starting on page 126. On pages 44-45 of the 2005 report, PARC revisits Recommendation 5.15 and notes that no action had been taken by the City of Portland.

Copies of all four PARC reports are available on IPR's website or by visiting the IPR office.

1 **335.00 Use of Force Review Boards**

2 Index: Title;

3 Refer: ORS 131.005 Probable Cause, Defined

4 ORS 161.015 Deadly Physical Force and Serious Physical Injury, Defined

5 ORS 161.219 Limitations on Use of Deadly Physical Force in Defense of a Person

6 ORS 161.239 Use of Deadly Physical Force in Making an Arrest or in Preventing an
7 Escape

8 DIR 341.00 Discipline Process

9 DIR 342.00 Performance Deficiencies

10 DIR 343.00 Criminal Investigations of Portland Police Employees

11 DIR 344.00 Prohibited Discrimination

12 DIR 1010.10 Deadly Physical Force

13 DIR 1010.20 Physical Force

14 Applicable Bargaining Agreements

15

16 **POLICY (335.00)**

17 The Use of Force Review Board (UFRB) will serve as an advisory body to the Chief of Police.
18 The UFRB will review cases as defined in subsequent sections of this directive for adherence to
19 policy and generally accepted standards. A quorum of five board members is required.

20

21 **PROCEDURE (335.00)**

22 **Directive Specific Definitions**

23 Action items: Recommendations for the review of policies, training, supervision, tactics, and
24 equipment that are identified during the review board process.

25 Board member: Bureau member or citizen serving on a Use of Force Review Board with the
26 right to ask questions and to vote on each item being considered.

27 Case File: A file containing copies of the detective case notebook, the Internal Affairs
28 investigation and Training Division analysis.

29 Controverted finding: Determination that is challenged by a Branch Chief, the IAD manager or
30 the IPR director.

31 Involved member: The member whose actions are the subject of the review.

32 Witness member: A member who observed some or all of an incident being reviewed.

33 Findings for officer involved shootings and in-custody deaths are defined as:

34 a. In policy.

35 b. Out of policy.

36 c. In policy with debriefing.

37 1. Tactical development.

38 2. Organizational review.

39 3. Performance analysis.

40

41 **Selection Process for Board Members (335.00)**

42 a. The Chief of Police will select volunteers to form a pool of citizen members to serve on the
43 UFRB.

44 1. Citizen board members must pass a background check, participate in training to become
45 familiar with Bureau training and policies, and sign a confidentiality agreement. Training

46

47

1 for Board members will include such topics as use of force, just cause, discipline policy
2 and Bureau directives.

3 2. Citizen members will be required to participate in ride-alongs to maintain sufficient
4 knowledge of police patrol procedures.

5 3. The names of citizen members serving in the pool will be made public.

6 b. The Chief of Police will also appoint Bureau members from each rank to serve as peer
7 members for the boards. Peer member applications will be reviewed by the Services Branch
8 chief and representatives of the Bureau's bargaining units. Peer representatives from the
9 involved member's RU will not serve on the UFRB.

10 c. All Board members will serve at the discretion of the Chief of Police.

11 d. All Board members will receive a comprehensive orientation regarding the UFRB process.
12

13 **The Use of Force Review Board's Scope (335.00)**

14 a. To review the following use of force incidents:

15 1. All officer involved shootings.

16 2. Serious injury caused by an officer that requires hospitalization and
17 treatment.

18 3. All in-custody deaths.

19 4. Less lethal incidents where the recommended finding is out of policy.

20 5. Discretionary cases referred by the Chief of Police or Branch chief.

21 6. Controverted findings.

22 b. To recommend findings to the Chief of Police on whether or not the force used was
23 within Portland Police Bureau policies.

24 c. To comment on the adequacy and completeness of the investigation and the RU
25 manager's findings of the investigation.

26 d. To ask for additional investigation, if needed.

27 e. To recommend action items.

28 f. To consider performance issues regarding the involved member.

29 1. Performance issues involving a witness member will be referred to the Performance
30 Review Board as a separate action.
31

32 **Use of Force Review Board Composition (335.00)**

33 A UFRB will be composed of eight voting members and six advisory members:

34 a. Three Branch chiefs. The Services Branch chief serves as the chair.

35 b. Two peer members of the same rank/classification as the involved member; peer
36 members will be selected from a pre-approved pool of Bureau representatives.

37 c. Two citizen members from a pre-approved pool of citizen volunteers.

38 d. Member's RU manager.

39 e. The Office of Accountability and Professional Standards manager (advisory member).

40 f. The Review Board Coordinator (advisory member).

41 g. A representative from the Bureau of Human Resources (advisory member).

42 f. A representative from the City Attorney's Office (advisory member).

43 i. Internal Affairs Division Manager (advisory member)

44 j. Independent Police Review Director (advisory member)

45 During the presentation of the case there may also be representatives from the following:

46 a. Training Division.
47

- b. Divisions with investigative functions (IAD, Detectives, Precinct).
- c. Bargaining units.

Board Member Responsibilities (335.00)

- a. Board members will engage in honest and thoughtful discussions and vote based on the Board member's best judgment.
- b. All case files are confidential in nature. Board members will not discuss or disclose any information about the cases without the authorization of the Services Branch chief.
- c. Case files will be reviewed by Board members under the following procedures:
 - 1. The review must take place in the Review Board Coordinator office.
 - 2. No materials will be removed from the Review Board Coordinator office including case files or notes taken during case review.
- d. The Board should request additional information whenever the Board determines that such information would be necessary to make a decision.

Involved Members' Responsibilities (Rights) (335.00)

- a. The involved member has at least 14 days to review the case file before the UFRB meeting.
- b. If the involved member elects to be present, the involved member may, after the presentation of the case, provide information to the UFRB regarding the incident.
- c. The involved member may provide information to the UFRB in written or oral format.
- d. The involved member may be accompanied before the Board by a bargaining unit representative or an attorney.
 - 1. In the case of medical necessity, the UFRB chair may authorize the involved member to be accompanied by another necessary person.
- e. The involved member is allowed to remain until executive session.

Review Board Coordinator Responsibilities (335.00)

The Review Board Coordinator is a non-sworn position assigned to the Chief of Police's office. The Review Board Coordinator convenes the UFRB and oversees its function.

- a. Upon receipt of the IAD investigation report and Training Division analysis, forward the case file to the RU Manager to prepare an analysis and proposed findings.
- b. Upon receipt of the RU Manager's analysis and proposed findings from the Branch chief, within 21 days, select a date to convene the UFRB.
 - 1. If the involved member is unable to attend due to illness or emergency, the meeting may be rescheduled by the RBC with permission from the UFRB chair.
 - 2. The RBC will select members to form each UFRB.
- c. Ensure that the Training and IAD managers receive a copy of the RU manager's analysis and proposed findings.
- d. Notify the involved member of the date and time of the UFRB at least 14 days prior to the UFRB meeting and facilitate the member's review of the case file.
- e. Issue an invitation to the involved member(s) to be present and to participate in providing a personal account of the incident details.
- f. Provide the involved member with a written description of the UFRB procedures.
- g. Act as the custodian of the case file.

- 1 h. Notify IAD in writing of the UFRB's recommendations. Notify IAD in writing if the
- 2 Chief's decision changes the UFRB's recommendations.
- 3 i. Notify the Board members of the final decision by the Chief of Police of those cases
- 4 heard by the members.
- 5 j. Coordinate with citizen and peer members for review of the case file.
- 6 k. Assist in the review process as required.
- 7 l. Maintain a record of all recommendations and action items identified and document the
- 8 actions taken in response to the recommendations or action items.
- 9 m. Advise and assist in ensuring that all proper procedures are adhered to.
- 10 n. Assist in the preparation of appropriate documents.

11 **Detective Division Manager's Responsibilities (335.00)**

- 12 a. At the conclusion of the Grand Jury/Public Inquest proceedings or decision by the
- 13 District Attorney regarding whether criminal charges will be filed against any involved
- 14 member, the Detective Division will have 30 days to complete the investigative case
- 15 notebook and provide copies of the case notebook to the following.
- 16 1. Review Board Coordinator.
- 17 2. Internal Affairs Division manager.
- 18 3. Training Division manager
- 19 4. Involved member's bargaining unit representative.
- 20 5. IPR director.
- 21 b. Within two weeks of distributing the case notebooks, investigators will meet with
- 22 members of the Internal Affairs and Training Divisions to discuss areas to be reviewed
- 23 and presented at the UFRB.
- 24 c. Prepare and present an oral presentation at the UFRB.

25 **IAD Manager Responsibilities (335.00)**

- 26 a. Upon receipt of the completed Detective Division case notebook, IAD will have two
- 27 weeks to review the case notebook and meet with representatives of the Training and
- 28 Detective Divisions. The purpose of this meeting is to review the relevant issues of the
- 29 event and to designate responsibilities for each RU's analysis.
- 30 b. IAD will then have six weeks to complete its investigation.
- 31 1. IAD should interview the involved member unless the Detective Division's
- 32 investigation covered all appropriate issues relating to policy, training and tactics.
- 33 c. The completed IAD investigation report will be forwarded to the Review Board
- 34 Coordinator.
- 35 d. The IAD manager will ensure that a written report and oral presentation are prepared for
- 36 the UFRB. The IAD report and presentation will focus on policy related issues raised by
- 37 the review.

38 **Training Division Manager's Responsibilities (335.00)**

- 39 a. Upon receipt of the completed Detective Division case notebook, the Training Division
- 40 will have two weeks to review the case notebook and meet with representatives of the
- 41 Internal Affairs and Detective Divisions.
- 42 1. The purpose of this meeting is to review the relevant issues of the incident and to
- 43 designate responsibilities for each RU's analysis.

- 1 b. Training will then have six weeks to complete its analysis. The completed analysis will
2 be forwarded to the Review Board Coordinator. The Training manager will ensure that a
3 written analysis and oral presentation is prepared for the UFRB. This Training analysis
4 will focus on the following items:
5 1. Tactics, policies, equipment and level of force used.
6 2. Training provided to the member.
7

8 **RU Manager Responsibilities (335.00)**

- 9 a. Review all UFRB case files and prepare an analysis and proposed findings for all UFRB
10 incidents received by the RU manager.
11 b. Forward the analysis and proposed findings to the Branch chief within 21 days. The 21
12 day review period starts on the day after the case file is received at the RU. If the 21 day
13 timeline can not be met; the RU Manager must submit a memorandum to his/her Branch
14 Chief explaining the circumstances causing the delay.
15

16 **Branch Chief Responsibilities (335.00)**

- 17 a. Review all analyses and proposed findings.
18 b. If the Branch chief concurs with the analysis and proposed findings, the case will be
19 forwarded to the Review Board Coordinator within seven days.
20 c. If the Branch chief disagrees with the analysis or proposed findings, he/she will meet
21 with the RU manager to resolve the disagreement or prepare a supplemental analysis and
22 proposed findings.
23 d. Within seven days, the Branch chief shall either send the case file back to the RU
24 manager for further analysis or prepare the supplemental analysis and proposed findings
25 and send these to the RBC.
26 e. The seven day review period begins on the day after the case file is received by the
27 Branch chief.
28

29 **UFRB Chair Responsibilities (335.00)**

- 30 a. The UFRB Chair will provide the Chief a written description of the majority and any
31 minority opinions of the UFRB.
32

33 **Chief of Police's Responsibilities (335.00)**

- 34 a. Review and evaluate the recommended finding(s) and discipline.
35 b. Determine the appropriate course of action and/or discipline.
36 c. Return the case to the Review Board Coordinator for processing.
37 d. In a case where suspension without pay, demotion or discharge is proposed, conduct or
38 delegate the authority to conduct a due process meeting.
39 e. Consider information presented by the employee in the due process meeting, make a final
40 recommendation to the Commissioner-in-Charge and, once finalized, forward
41 documentation of the imposed discipline and the investigative file to the Review Board
42 Coordinator.
43
-

1 **336.00 PERFORMANCE REVIEW BOARDS**

2 Index: Title

3 Refer: DIR 330.00 Internal Affairs, Complaint Investigation Process

4 DIR 341.00 Discipline Process

5 DIR 342.00 Performance Deficiencies

6 DIR 343.00 Criminal Investigations of Portland Police Employees

7 DIR 344.00 Prohibited Discrimination

8 Applicable Bargaining Agreements

9
10 **POLICY**

11 **The Performance Review Board (336.00)**

12 The Performance Review Board (PRB) will serve as an advisory body to the Chief of Police.
13 The PRB will review cases as defined in subsequent sections of this directive for adherence to
14 policy and generally accepted standards. A quorum of five board members is required.

15
16 **PROCEDURES (336.00)**

17 **Directive Specific Definitions**

18 Action items: Recommendations for the review of policies, training, supervision, tactics, and
19 equipment that are identified during the review board process.

20 Board member: Bureau member or citizen serving on a Performance Review Board with the
21 right to ask questions and to vote on each item being considered.

22 Case File: File containing the originals or copies of the Internal Affairs file or other
23 investigation materials for a PRB case.

24 Controverted finding: Determination that is challenged by a Branch chief, the IAD manager or
25 IPR director.

26 Involved member: The member whose actions are the subject of the review.

27 Witness member: Member who observed some or all of an incident being reviewed by the
28 PRB.

29
30 **Selection Process for Board Members (336.00)**

31 a. The Chief of Police will select volunteers to form a pool of citizen members to serve on
32 the PRB.

33 1. Citizen board members must pass a background check, participate in training to
34 become familiar with Bureau training and policies and sign a confidentiality
35 agreement. Training for Board members will include such topics as use of force, just
36 cause, discipline policy and Bureau directives.

37 2. Citizen members will be required to participate in ride-alongs to maintain sufficient
38 knowledge of police patrol procedures.

39 b. The Chief of Police will also appoint Bureau members from each rank to serve as peer
40 members for the boards. Peer member applications will be reviewed by the Services
41 Branch chief and representatives of the Bureau's bargaining units. Pool representatives
42 will not serve on a PRB for a member of the pool representative's RU.

43 c. All Board members will serve at the discretion of the Chief of Police.

44 d. All Board members will receive a comprehensive orientation regarding the PRB process.

45
46 **The Performance Review Board's Scope (336.00)**

1 The PRB is to review all cases that involve:

- 2 a. Investigations resulting in a sustained finding and the proposed discipline are suspension
- 3 without pay or greater. See DIR 341.00 Discipline Process for procedures for Discipline
- 4 Process-Less than Suspension.
- 5 b. A controverted finding.
- 6 d. A request for review by the Chief of Police or a Branch chief.
- 7 e. All completed Equal Employment Opportunity investigations.

8 The PRB may make recommendations regarding the adequacy and completeness of the
9 investigation, the findings of the investigation, the proper charges, and the level of discipline.
10 The PRB may also suggest action items to address training or policy issues that have emerged
11 from an investigation or various investigations. In cases where discipline is recommended, the
12 PRB will recommend a level of discipline that is consistent with the applicable City and Bureau
13 rules, including obligations under collective bargaining agreements.

14 15 **Performance Review Board Composition (336.00)**

16 A PRB will be composed of six voting members and six advisory members:

- 17 a. Three Branch chiefs. The Services Branch chief will serve as the chair.
- 18 b. One peer member of the same or comparable rank/classification as the member being
- 19 reviewed, and will be selected from a pre-approved pool of Bureau representatives.
- 20 c. One citizen member, selected from a pre-approved pool of citizen volunteers.
- 21 d. Member's RU manager.
- 22 e. The Office of Accountability and Professional Standards manager (advisory member).
- 23 f. The Review Board Coordinator (advisory member).
- 24 g. A representative from the Bureau of Human Resources (advisory member).
- 25 h. A representative from the City Attorney's Office (advisory member).
- 26 i. The Internal Affairs Division Manager (advisory member)
- 27 j. The Independent Police Review Director (advisory member)

28 During the presentation of the case there may also be representatives from the following:

- 29 a. Training Division.
- 30 b. Investigative divisions (IAD, Detectives, Precinct).
- 31 c. Bargaining units.

32 33 **Involved Members' Responsibilities (336.00)**

- 34 a. The involved member has at least 14 days to review the case file before the PRB meeting.
- 35 b. If the involved member elects to be present, he/she may, after the presentation of the
- 36 case, provide information to the PRB regarding the incident.
- 37 c. The involved member may provide information to the PRB in written or oral format.
- 38 d. The involved member may be accompanied before the Board by a bargaining unit
- 39 representative or an attorney.
- 40 e. The involved member is allowed to remain until executive session.

41 42 **Review Board Coordinator Responsibilities (336.00)**

43 The Review Board Coordinator (RBC) is a non-sworn position assigned to the Chief of
44 Police's office. The RBC convenes the PRB and oversees its function.

- 45 a. Upon receipt of a case file from IAD select a date within 21 days to convene the PRB.
- 46 1. The RBC will select members to form each PRB.

- b. Notify the involved member of the date and time of the PRB at least 14 days prior to the PRB meeting and facilitate the member's review of the case file.
- c. Issue an invitation to the involved member (s) to be present and to participate in providing a personal account of the incident details.
- d. Provide the involved member with a written description of the PRB procedures.
- e. Retain a copy of the case file during the PRB process.
- f. Notify IAD in writing of the PRB's recommendations. Notify IAD in writing if the Chief's decision changes the PRB's recommendations.
- g. Notify the Board members of the final decision by the Chief of Police of those cases heard by the members.
- h. Coordinate with citizen and peer members for review of the case file.
- i. Assist in the review process as required.
- j. Maintain a record of all recommendations identified and document the actions taken in response to the recommendations.
- k. Advise and assist in ensuring that all proper procedures are adhered to.
- l. Assist in the preparation of appropriate documents.

Branch Chief Responsibilities (336.00)

- a. Review the RU manager's recommendations for findings and discipline within seven days and then forward to IAD.
- b. If a finding includes discipline that is less than a suspension, return the case file to the RU manager to implement discipline. Documentation of the completed discipline will be returned to the Branch chief who will forward it to IAD.
- c. If a finding includes discipline of a suspension or greater, forward the case file to IAD.

Chief of Police's Responsibilities (336.00)

- a. Review and evaluate the recommended finding(s) and discipline.
 - b. Determine the appropriate course of action and/or discipline.
 - c. Return the case to the RBC for processing.
 - d. In a case where suspension without pay, demotion or discharge is being considered, conduct (or delegate the authority to conduct) a due process meeting.
 - e. Consider information presented by the employee in the due process meeting, and if discipline is the final recommendation, make the final recommendation to the Commissioner-in-Charge and, once finalized, forward documentation of the imposed discipline and the investigative file to the Review Board Coordinator.
-

630.50 EMERGENCY MEDICAL AID

Index: Title

PROCEDURE (630.50)

Emergency Medical Aid (630.50)

Members will provide emergency medical aid to ill or injured persons under the following conditions:

- a. The member has completed a Bureau approved First Responder or First Aid course within the past three years.
- b. The member has been CPR certified within the past year.
- c. Primary police duties have been accomplished.
 1. Any immediate danger has been neutralized.
 2. Dangerous subjects have been apprehended or have fled the immediate area.
 3. Any required emergency assistance has been requested by telephone or radio, at the earliest time feasible.

If the above conditions have been met, the member will perform artificial resuscitation, if necessary, using an authorized barrier resuscitation mask. Artificial resuscitation may be performed if the authorized barrier mask is unavailable.

Communicable Diseases Procedure (630.50)

It is possible that in the course of their duties, members will come into physical contact with individuals infected with communicable diseases. These diseases include, but are not limited to, Hepatitis A, B, or C, AIDS, Tuberculosis, Diphtheria and certain venereal diseases. Members contacting individuals in the presence of body fluids should take the following precautions:

- a. Wear surgical gloves if there is a possibility of contamination from body fluids, especially blood.
- b. Wash hands as soon after contact as possible.
- c. Clean and disinfect contaminated skin, clothing and equipment as soon as possible with a 1-to-9 chlorine bleach solution.
- d. If it is a possibility that body fluids from an infected individual have penetrated the member's skin, contact the exposure line and follow reporting protocol. The exposure line phone number is available in the Problem Solving Resource Guide.
- e. Write a Special Report documenting the incident.

Surgical gloves and disinfectant solution will be made available in the first aid kits in the precincts.

First Aid Supplies (630.50)

- a. Emergency medical aid supplies will be readily accessible to all members. Supplies will be based on the types of injuries that could occur at the place of employment.
- b. One properly marked first aid container, adequate to protect contents from damage, deterioration or contamination, will be available in each

marked patrol vehicle, police motorcycle, and on each floor of all work areas.

- c. Signs stating the location of first aid kits will be posted in conspicuous locations within work areas.
 - d. RU managers are responsible for the regular inspection, maintenance, inventory and condition of first aid kits.
-

850.20 MENTAL HEALTH CRISES RESPONSE

Index: Title

Refer: ORS 161.336(5) Conditional Release by Psychiatric Security Review Board: Termination or Modification of Conditional Release
ORS 181.530 Commitments
ORS 426.228 Police Officer Taking Person into Custody – Mental Treatment
ORS 430.735 – 765 Duty of Certain Persons (incl. Peace Officers) to Report Abuse of Mentally Ill or Developmentally Disabled Adults
DIR 850.30 Juveniles, Custody
Report of Peace Officer Custody of an Allegedly Mentally Ill Person (CIT Coordinator)
Report of Peace Officer Custody of an Allegedly Mentally Ill Person as Directed by a Community Mental Health Director (CIT Coordinator)

POLICY (850.20)

It is common for members to have contact with persons who by their actions indicate that they may have a mental illness. No person shall be taken into custody for mental illness alone. A mentally ill person will only be taken into custody when he/she has also committed an arrestable offense, has a valid detention order against him/her, or has demonstrated by his/her actions, as observed by a reliable person, that he/she poses a danger to him/herself or to others; and is in need of immediate care, custody or treatment for a mental illness.

PROCEDURES (850.20)

Directive Specific Definition

Abuse is:

- a. Any death caused by other than accidental or natural means.
- b. Any physical injury caused by other than accidental means or that appears to be at variance with the explanation given of the injury.
- c. Willful infliction of physical pain or injury.
- d. Sexual harassment or exploitation, including but not limited to any sexual contact between an employee of a facility or community program and an adult mentally ill or developmentally disabled person who receives services from the community program or facility.

Mandatory Reporting Requirements (850.20)

Members will complete an Investigation Report for allegations of abuse to mentally ill and developmentally disabled persons and forward a copy of the report to the Multnomah County Mental Health Division or to the Developmental Disabilities Services Division. Members will report non-criminal matters to the Gatekeeper Program as listed in the Problem Solving Resource Guide.

Crisis Intervention Team (CIT) (850.20)

CIT consists of sworn members who have completed the qualifying CIT training. CIT members assigned to patrol will be used for incidents involving persons in a crisis due to a mental illness or developmental disability.

BOEC will dispatch the nearest CIT officer assigned to the precinct of occurrence as the primary investigator. If no precinct CIT officers are available, BOEC will search citywide for an available CIT member to respond. CIT officers will notify his/her supervisor when leaving precinct boundaries. BOEC will dispatch cover units, including additional CIT members, as appropriate. If a CIT member is dispatched as the primary, he/she will investigate the incident and make appropriate custodies, transports or referrals. He/She will remain the lead investigator, unless relieved by a supervisor or not needed due to a change in circumstances before the CIT member's arrival.

Members involved in an incident requiring CIT should request their response. If the member has already taken a person into custody, he/she may still request CIT for assistance in making appropriate referrals or for assistance in processing the person. In this case, CIT will not act as the primary investigator.

Supervisors may use CIT members to make initial contact with subject(s) involved in incidents requiring the Hostage Negotiation Team (HNT). CIT will not be used in place of HNT, but HNT may use CIT as needed.

Dispositions (850.20)

Members will consider the nature of the situation and the behavior of the allegedly mentally ill person involved in determining the appropriate disposition of the person. Members may choose from the following options:

- a. Refer to a mental health agency, crisis hotline or other related service agency. Resource information can be located through the Police Information Line or the Problem Solving Resource Guide.
- b. Consult with a mental health or medical professional. Members can request, through BOEC, a Mobile Crisis Team to respond to the scene, if available. Members may contact the person's health professionals, the mental health crisis line or other appropriate resource agencies.
- c. Transport the person to a mental health or medical facility for voluntary care when no other means of transportation are readily available. Assisted persons should not be dangerous and be able to manage their behavior. Members should escort persons into the waiting area and introduce the person to facility staff. Members are not required to standby. Members will complete a Special Report and document the incident and transport.
- d. Take the person into custody (civil) when there is probable cause that the person is a danger to him/herself or another person and is in need of immediate care, custody or treatment for mental illness and transport him/her to the appropriate secure evaluation unit or to the nearest designated hospital for a mental health evaluation.
- e. Take the person into custody for an arrestable offense or, in the case of a citeable offense, cite the person and either take the person into

custody (civil) for a mental health evaluation or voluntarily transport the person to a treatment facility.

Peace Officer Custody for an Allegedly Mentally Ill Person (Civil Custody Report) (850.20)

When taking an allegedly mentally ill person into custody (civil) for a mental health evaluation, members will:

- a. Transport the individual to the appropriate secure evaluation facility, or if there is no secure evaluation facility or if the unit is on divert, to the nearest designated hospital emergency department that conducts mental health evaluations.
- b. Remain at the facility until a physician determines whether the person will be admitted. If not admitted, the member may arrest the person for an offense, transport the person back to the original custody location or both. In the case where no arrest is made and the person chooses not to return to the location of custody, the person will be released outside the care facility.
- c. Complete an Investigation Report and a Civil Custody Report, before leaving the facility.
- d. Make copies of both reports. Leave the original Civil Custody Report and a copy of the Investigation Report with the secure evaluation unit or the receiving hospital. Turn in the original Investigation Report along with a copy of the Civil Custody Report to a supervisor before the end of his/her shift.

Peace Officer Custody of an Allegedly Mentally Ill Person per a Mental Health Director (Director's Custody Report) (850.20)

When assisting a community health and developmental disabilities program director or designee in taking an allegedly mentally ill person into custody, members will:

- a. Verify the authority of the person signing the Director's Custody Report and ordering the custody (civil). Approved Qualified Mental Health Professionals (QMHP) have identification cards from Multnomah County.
- b. Take into custody (civil) the person named on the Director's Custody Report and notify a supervisor.
- c. Obtain the Director's Custody Report from the director or designee and transport the person to the medical facility as designated by the director.
- d. Remain at the facility until custody is transferred to the facility security, if needed. Member should report their observations to a facility social worker or physician and check with the facility before leaving the premises. In the case where facility security relieved the officer and the person was not admitted, the officer may be requested to return to the facility and must transport the individual back to the original contact location.

- e. Complete a Special Report documenting the custody (civil) and transport.
- f. Leave the original Director's Custody Report and a copy of the Special Report with the secure evaluation unit or the receiving hospital.
- g. Turn in the original Special Report along with a copy of the Director's Custody Report to a supervisor before the end of his/her shift.

Psychiatric Security Review Board (PSRB) Orders of Revocation (850.20)

PSRB will direct members to take PSRB supervised persons into custody on Revocation Orders, which are comparable to arrest warrants. When a member is notified of a PSRB Revocation Order, typically through a PSRB LEDS message reading: "No Criminal Warrant, PSRB Order for mandatory return to Oregon State Hospital" members will:

- a. Take the person named in the Revocation Order into custody and notify a supervisor.
- b. Ensure the Oregon State Hospital Communications Center is notified (see the Problem Solving Resource Guide for the number).
- c. Transport, with one other member, the person to the Oregon State Hospital Communications Center. If additional verification of Revocation Order is needed, the PSRB Executive Director may be contacted (see the Problem Solving Resource Guide for the number).
- d. Document the incident on a Police Custody Report and turn it into a supervisor before the end of his/her shift.

Escaped Mental Patients (850.20)

Members may be requested to take escaped patients into custody. This will be done only when:

- a. An escapee from a state hospital was committed under ORS 181.530 due to a conviction of a crime or committed as sexually dangerous. Notice can be in writing or by teletype.
- b. A civilly committed person unlawfully escapes from a residential facility and the facility produces the order of commitment.
- c. An escapee is deemed to be a danger to him/herself or others.

If escapees meet the above criteria, members should:

- a. Take the escapee into custody (civil) and transport him/her to the appropriate secure evaluation unit or nearest designated hospital.
- b. Contact the facility escaped from and notify them of location to pick up their escapee.
- c. Complete a Special Report documenting the incident and transport, to include the name of the person notified at the escaped facility, and submit the report to a supervisor before the end of his/her shift.

Warrants of Detention/Trial Visitation (850.20)

During pre-trial civil commitment processes, an allegedly mentally ill person may be released into the community and be investigated by a civil commitment investigator. A civil warrant of detention may also be issued by a judge to take a

mentally ill person into custody. Members should not become involved in these activities unless called to an incident to assist a civil commitment investigator or civil deputy in fulfilling his/her mission. The statutory authority to serve a warrant of detention rests with the county sheriff.

Assisting Hospitals with Mentally Ill Patients and Walk-aways (850.20)

Members will not become involved in incidents within a secure evaluation unit or an emergency care hospital, unless the facility cannot give appropriate care or a person becomes violent, resistive or refuses to go with facility arranged transportation to an appropriate facility. Secure evaluation units and hospitals are responsible for transports to the other care facilities. Members will not take into custody voluntarily admitted patients who have walked away from a hospital or facility, unless their actions at the time indicate they are a danger to themselves or others and are in need of immediate care, custody and treatment for mental illness.

Custody of Juveniles (850.20)

Juveniles may be taken into custody for a mental health evaluation under the same circumstances as an adult. The parent/guardian of the juvenile should call the destination hospital to make arraignments for the completion of any needed consent for treatment forms. If a member is unable to gain consent from a parent/guardian, he/she will follow the will contact DHS Child Abuse 24-hour Hotline and follow the protective custody guidelines outlined in DIR 850.30.

Records Division Responsibilities (850.20)

Records will flag those persons taken into civil custody in PPDS as Allegedly Mentally Ill and forward copies of all mental health related reports to the CIT Coordinator.

RESPONSIBILITY, ACCOUNTABILITY AND CONTROL (850.20)

Supervisors will ensure that appropriate dispatch and use of CIT procedures are followed and ensure against the misuse of CIT. Supervisors will also ensure their members follow the investigations and reporting requirements. The CIT Coordinator will review all reports forwarded by Records and will act as a liaison between the Bureau and the mental health community.

850.25 POLICE RESPONSE TO MENTAL HEALTH FACILITIES

Index: Title

Refer: DIR 720.00 SERT and HNT Use

DIR 850.20 Mental Health Crises Response

DIR 1010.20 Physical Force

Multnomah County Mental Health and Addiction Services Protocols

POLICY (850.25)

Portland Police Bureau members will provide its services consistent with the mission and values of the organization. It is the responsibility of the operators of mental health facilities, secure evaluation units, and emergency care hospitals, to maintain order within the facility and to provide for the safety and security of patients and staff members. In that capacity, Bureau members may be called to assist facility staff according to the Multnomah County Mental Health and Addiction Services protocols. These protocols state that routine calls and urgent calls are to be directed to the Multnomah County Call Center. Only those calls for crimes in progress, armed individuals on premises or property, or serious assaults to residents or staff will result in a call for police services. Multnomah County is responsible for training facility staff in these protocols and monitoring compliance.

PROCEDURE (850.25)

CIT Coordinator Responsibilities

The CIT Coordinator is responsible to:

- a. Review police reports that reference police response to persons with mental illness and identify issues for follow up.
- b. Work with Bureau personnel to follow up on concerns raised regarding response to mental health facilities.
- c. Supply precinct commanders with floor plans of all residential mental health facilities within the precinct boundaries. These floor plans will be provided by Multnomah County.
- d. Review copies of reports generated by any response to a residential mental health facility to monitor proper usage of the call center protocol by the facility.
- e. Conduct regular meetings of the CIT Advisory Committee, with representatives from mental health service providers and regulators, to review facility issues and problem solve.

Precinct Commander or Designee Responsibilities (850.25)

- a. Regularly review the floor plans of the residential mental health facilities within the precinct boundaries, and share information with supervisors and officers.
- b. Forward copies of reports written from any response to a residential mental health facility, within his/her precinct boundary, to the CIT coordinator.

- c. Notify BOEC of the residential mental health facilities within his/her precinct boundaries and ensure the facilities are designated to receive a minimum call response of a supervisor, and four officers (to include a CIT officer, if available).
- d. Regularly meet with facility management representatives to review:
 - 1. This directive and expectations of facility management for response to patients and requests for police assistance in emergencies.
 - 2. Facility emergency policies for dealing with combative patients.
 - 3. Facility floor plan and security features (doors, windows, video surveillance, secure rooms, etc.).
 - 4. The numbers of on-duty staff and their training for response to problem behaviors.

Multnomah County Mental Health and Addiction Services Role (850.25)

Through a partnership agreement with the Bureau, Multnomah County Mental Health and Addiction Services management has created response protocols, and will provide ongoing training for facility staff and will monitor compliance. These protocols require that facility staff first call the Multnomah County Call Center for the following types of calls:

- a. Routine calls: These will be directed to either the Call Center or the facility administrator. These calls would include consultation related to an ongoing event or situation, gathering direction for next steps and reporting a missing patient.
- b. Urgent calls: These will be directed to the Call Center. These calls would include consultation related to an ongoing event or situation, requests for Project Respond and patient transport to the hospital.
- c. Emergency calls: These will be directed to 9-1-1. These calls would include fire, medical emergency, crime in progress, armed individuals on premises or on the property, or serious assaults to staff or residents. Serious assaults are defined as those assaults that would require police use of force to intervene.

Mental Health Facility Role (850.25)

Through a partnership agreement with the Bureau and Multnomah County Mental Health and Addiction Services, facility administrators and staff are responsible to:

- a. Ensure that staff members are trained on the response protocols and adhere to them.
- b. Ensure that staff members follow procedures for reporting when police are called to their facilities.
- c. Ensure that when police are called, that a staff member will meet police outside the facility and provide them with the following:
 - 1. A floor plan that shows the location of the person who requires police response, and location of other patients, visitors and staff.
 - 2. Information about the incident and persons involved that would aid police in planning their response.

- d. Participate in incident debriefings.
- e. Identify and correct security measures.

Supervisor Responsibilities (850.25)

When responding to emergencies at mental health facilities, supervisors will ensure that a minimum of four officers, to include a CIT officer if available, respond in addition to the supervisor. Experience has shown that persons with mental illness may be able to fight on and overcome the pain caused by impact weapons such as batons or less lethal ammunition strikes, as well as the irritation caused by the use of pepper spray. The Taser may be the most effective control option when a person is engaging in physical resistance to a lawful police action or aggressive physical resistance to a lawful police action. See DIR 1051.00 Taser, Less Lethal Weapon System for use guidelines and reporting requirements.

The following are tactical guidelines for supervisors to consider before entry into a psychiatric facility:

- a. Ensure that all responding officers stage and await the arrival of all necessary personnel and equipment as needed.
 - b. Meet with a facility staff member outside of the building and gather all possible information regarding the incident and the patient(s).
 - c. Evaluate the necessity for police intervention in the incident, considering the severity of the threat and the options to resolve it.
 - d. Review the need for the activation of SERT in cases where the patient is barricaded and intervention is needed or the potential of a hostage situation exists.
 - e. If police intervention is warranted, develop a tactical plan taking advantage of the most effective control options that may safely resolve the incident.
 - f. Specific tactical considerations will vary depending upon the incident and will require active supervision and direction by the supervisor and a clear understanding among officers of the manner by which control will be gained.
 - g. If at any time during the attempt to gain control of the patient, the patient is sufficiently isolated or contained within the facility so as to render the patient safe from harming themselves or others, disengage from further contact as the primary goal of gaining control will have been met.
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940.00 AFTER ACTION REPORTS AND OPERATION ORDERS

Index: Title

Refer: ORS 161.015 General Definitions

DIR 640.54 Prisoner/Suspect Damage to city Property

DIR 1010.10 Deadly Physical Force

DIR 1010.20 Physical Force

After Action Form (CHO)

Operation Order Form (CHO)

PROCEDURES (940.00)

Directive Specific Definitions

After Action Report: A narrative report that describes a police action and assesses its effectiveness through critique and evaluation using required criteria.

Operation Order: A written plan to deal with specific police activity.

Serious physical injury (from ORS 161.015): 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.

After Action Report (940.00)

- a. An After Action report shall be written for the following events/incidents:
 1. Vehicle pursuits.
 2. When a Use of Force Report is submitted that includes but is not limited to any of the following:
 - a) Less lethal.
 - b) Firearm discharge not in the performance of a police action
Refer to DIR 1010.10 Deadly Physical Force and DIR 335.00 Use of Force Review Boards for reporting requirements and criteria for the use of deadly force in a police action.
 - c) Taser deployment. Refer to DIR 1051.00 Taser, Less Lethal Weapon System for specific reporting criteria.
 - d) Police Canine (K9) Bites.
 3. Special Emergency Reaction Team (SERT) deployment.
 - a) The on-scene SERT supervisor will complete an after action report on SERT's participation in the incident.
 - b) The on-scene supervisor will complete an after action report on the circumstances leading up to and after the SERT activation.
 4. Hostage Negotiation Team (HNT) deployment.
 5. Explosives Disposal Unit (EDU) call out.
 - a) The EDU supervisor will complete all necessary EDU after action reports.
 - b) 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 RU commander.

6. Officer injury.
 7. Injury to suspect in custody.
 8. Police vehicle collision.
 9. Damage to or loss of city property.
 10. Property Evidence Division (PED) firearm and narcotics destruction.
 11. Any incident or event for which an Operation Order was written.
 12. Any operation or mission using overtime, or significant on-duty (straight-time) resources.
 13. Any other incident or event, as directed.
- b. After action reports will be completed within seven working days of the incident generating it. Exceptions must be approved by the appropriate Branch chief.
 - c. An After Action Report will be written in memo form and addressed (through channels) to the appropriate Branch chief. The Branch chief will forward copies to the Training Division (Training) and IAD, when appropriate. An After Action Report shall be submitted in the standard Bureau format. A copy of this format will be downloaded from the Intranet, and completed as is. The format shall not be changed or altered without permission of the Chief of Police. The report format is:
 1. Summary:
 - a) The summary will be a short one or two paragraph narrative that describes the significant facts of the event.
 2. Personnel Costs (if applicable):
 - a) 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 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.
 3. Critique and Recommendations:
 - a) The critique and recommendations will contain a thorough analysis of the incident. It will address any applicable directives and whether they were complied with or not complied with, and any recommendations or actions taken to address issues raised in this area of the After Action Report.
 4. Appendix:
 - a) 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.

Operation Orders (940.00)

- a. An Operation Order will be completed any time significant police resources are redirected from routine activities. At a minimum, an Operation Order shall be issued for the following activities:
 - 1. Major public events such as parades, Rose Festival events, marches, protests, or any time permitted street closures require a significant police presence.
 - 2. Missions that involve overtime expenditures requiring approval from a Branch chief.
 - 3. As directed by a superior officer.
 - b. Order Format:
 - 1. An Operation Order will be written in the Incident Action Plan format and addressed through channels to the appropriate Branch chief. A copy of this format will be downloaded from the Intranet, and completed as is. The format shall not be changed or altered without permission of the Chief of Police.
 - c. Recurring events.
 - 1. After Action Reports for recurring events should be examined prior to creating any new Operation Order to aid in the identification of best practices, lessons learned, and to address any needed issues.
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1010.10 DEADLY PHYSICAL FORCE

Index: Title; Deadly Physical Force Against Members; Firearms Policy; Force, Deadly Physical; Notification Procedures When Deadly Physical is Used Against Bureau Members; Reports – Requirements, Use of Deadly Physical Force; Review Board, Firearms Discharge; Shooting at or From Vehicles; Shooting, Cover Fire; Warning Shots

Refer: ORS 131.005 Probable Cause, defined
ORS 161.015 Deadly Physical Force and Serious Physical Injury, Defined
ORS 161.219 & 161.239 Use of Deadly Physical Force
DIR 335.00 Performance Review and Use of Force Review Boards
DIR 410.00 Injuries/Occupational Illness
DIR 630.05 Vehicle Pursuits
DIR 631.70 Investigations of Animal Problems
DIR 640.10 Crime Scene Procedures
DIR 910.00 Field Reporting Handbook Instructions
DIR 1010.20 Physical Force
Supervisor's Checklist (Detectives)
Supervisor's Checklist Form (Detectives)

POLICY (1010.10)

Sanctity of Life

The Portland Police Bureau recognizes and respects the integrity and value of human life, and that the decision to use deadly physical force is the most important decision that a member will make in the course of his/her career. The use of deadly physical force will emotionally, physically and psychologically impact the member involved, the subject the deadly physical force was directed at, and the family and friends of both and can impact the community as well.

Deadly Physical Force (1010.10)

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 statute and Bureau policy provide for the use of deadly force under the following circumstances:

- a. 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.
- b. 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 a significant and immediate threat of death or serious physical injury to the member or others.
- c. If feasible, some warning has been given.

The use of statutorily defined deadly weapons, barricades and vehicle ramming, constitutes deadly physical force. Also, depending upon how they are used, flashlights, batons, body parts, and other statutorily defined dangerous weapons may constitute deadly physical force.

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. Members of the Portland Police Bureau should ensure their actions do 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 acceptable training principles and tactics.

Threat indicators, Levels of Control, and Post Use of Force Medical Attention are outlined in detail in DIR 1010.20 Physical Force.

Shooting At a Moving Vehicle (1010.10)

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:

- a. 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.
- b. There are no other means available at the time to avert or eliminate the threat.

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.

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.

Additional Considerations (1010.10)

A moving vehicle may become an uncontrolled deadly weapon that could seriously injure or kill the occupants of the vehicle and/or subjects in its path if the driver becomes incapacitated before the vehicle comes to a stop.

Members must be mindful of the following when considering the use of deadly physical force involving a vehicle:

- a. Bullets fired at occupants of moving vehicles are extremely unlikely to stop or disable the moving vehicle.
- b. Bullets fired may miss the intended target or ricochet and cause injury to officers or other innocent persons.
- c. The vehicle may crash and cause injury to officers or other innocent persons if the bullets disable the operator.
- d. Moving to cover, repositioning, and/or waiting for additional responding units to gain and maintain a superior tactical advantage maximizes officer and public safety and minimizes the necessity for use of deadly physical force.

- e. Shooting accurately from a moving vehicle is extremely difficult and, therefore, unlikely to successfully stop or prevent a threat to the member or other innocent person.

These 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.

Shooting From a Moving Vehicle (1010.10)

Members shall not discharge a firearm from a moving vehicle except:

- a. In the immediate defense from the threat of death or serious physical injury to the officer or another person.
- b. No other means exists at the time to avert or eliminate the threat.

Other Authorized Uses for Firearms (1010.10)

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

- a. To kill or deter a dangerous animal or to kill an animal so badly injured that it should be destroyed to prevent further suffering.
- b. At a firing range pursuant to all safety rules and regulations.
- c. The definition of cover fire is when a member discharges a firearm in a tactical situation to neutralize the use of deadly physical force. Cover fire is not intended to strike a subject, but is meant only to prevent subjects from taking action against the police or others, or entering or occupying locations. Cover fire can be dangerous and must be used with extreme caution. The Portland Police Bureau reviews the use of this type of cover fire, it judges its employees by the standard of reasonableness, and expects members to have balanced the risks against the benefits, and to have considered safety factors such as backdrop and penetration, as well as the effect on the incident dynamics.

Warning Shots (1010.10)

Members will not fire warning shots.

Destruction of Animals (1010.10)

Immediate supervisors will be responsible for investigating incidents where an animal was intentionally destroyed under the guidelines of DIR 631.70. This requirement does not prohibit a supervisor from requesting Detective Division (Detectives) assistance if the circumstances dictate such involvement.

Negligent Discharge (1010.10)

Detectives will respond and assume investigative responsibility for all negligent or unintentional discharges, except:

- a. At a Bureau authorized firearms range where no person was endangered by the discharge. In those circumstances, the Training

Division (Training) will have responsibility for investigation and reporting.

Release of Information (1010.10)

The Bureau realizes that it is, in every situation, accountable to the public. Public accountability requires the Bureau to provide timely and complete information when members use deadly force. However, the Bureau must weigh the public's right to know with what is in the best interest of the investigation. As a rule, the Bureau will release, as soon as possible, accurate information which will not compromise an ongoing investigation or the potential prosecution of a suspect(s).

The Public Information Officer (PIO), who reports directly to the Chief of Police, will be called out to all use of deadly force incidents. As soon as possible, the PIO will coordinate with the Detective Division Sergeant in charge of the investigation, the on-scene representative of the District Attorney's office, and a union representative of the involved member(s) to determine what information will be released. During the course of the criminal investigation, the Detective Division will coordinate the release of information through the PIO. The Chief of Police is ultimately responsible for approving information available for release.

The Bureau also has a responsibility to ensure that citizens and, in particular, the family of citizens directly affected by the use of deadly force, along with members of the Bureau receive timely information. To provide timely and accurate information, the Detective Division may direct the Crisis Response Team (CRT) to assign a liaison to assist in providing information to members of the community directly affected by a use of deadly force. The CRT will not release information that has not been approved for release by the Detective Division and the District Attorney's office. Internal communication will be coordinated through the Chief of Police.

As soon as possible, the PIO will release to the public the available information. Typically, the information will include:

- a. Nature of the call.
- b. Time of the call and member arrival.
- c. Number of members directly involved in the use of deadly force.
- d. Years of service of members directly involved in the use of deadly force.
- e. General information about the citizen(s) involved in the deadly force encounter.
- f. Other information as determined by the Detective Division and District Attorney's office.

The identity of the Bureau member(s) involved in the incident will be released after a minimum of 24 hours. In incidents involving the death of a Bureau member, or member of the public, the identity will be released with approval of the Detective Division and the Medical Examiner's office.

As is normal procedure, requests for documents, CDs and other public records will be processed through the Records Division.

The Bureau has an interest in providing the community with information in the days that follow the use of deadly force. The Detective Division will coordinate the release of information with the PIO's office. Public accountability requires that the Bureau provide updated information in a timely manner. Information that could jeopardize the integrity of the investigation or information needed to complete the criminal investigation or any pending prosecution will be withheld from the public.

PROCEDURES (1010.10)

Directive Specific Definitions

- a. Barricade: The intentional blocking/barricading of a roadway, by any means, to prevent passage of a pursued vehicle (per DIR 630.05).
- b. Communication Restriction Order: An order issued in writing during an investigation that restricts the involved member(s) from discussing the facts of the case. This restriction will be given in writing and will be lifted in writing.
- c. Deadly physical force: Physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury (per ORS 161.015(3)).
- d. In-custody death: Occurs when a subject dies while under physical control of a member or dies while in police custody. Physical control includes the use of a Taser.
- e. Involved member: A member who is involved in the actual application of deadly physical force or directs another to use deadly physical force.
- f. Member: For purposes of this directive, the term member refers to any sworn member of the Portland Police Bureau. This includes reserve police officers.
- g. Negligent discharge: Any unintentional discharge of a firearm by a sworn member that is not due to equipment malfunction.
- h. On-scene briefing: A brief overview of the incident given to detectives or others as necessary, for the purpose of accurately processing the scene. An on-scene briefing may include but would not be limited to, the identification of the crime scene(s), the identification of other members present, the identification of potential witnesses, and the identification of evidence at the crime scene(s).
- i. Police action: Any circumstance(s), on or off duty, in which a member exercises official authority.
- j. Probable cause: A substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it (per ORS 131.005(11)).
- k. Serious physical injury: 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 (per ORS 161.015(8)).

- l. Warning shot: An intentional, unauthorized discharge of a firearm into the air, ground, or an inanimate object with the intent of gaining compliance by a suspect through shock or fear.
- m. Witness member: A member who observes, or has firsthand knowledge of, the events surrounding an in-custody death or the use of deadly physical force by another member and, other than observing the incident, did not use deadly physical force.

Post Use of Force Medical Attention (1010.10)

When a person has been injured by the use of force by a Bureau member or there is a potential for injury to that person, a member shall continually monitor the subject, if tactically feasible or appropriate. EMS will be requested to respond if the injury requires medical attention. The member shall monitor the subject for changes in their skin and/or lip color, breathing and levels of consciousness. If any significant changes in any of these areas are observed, the member shall notify EMS immediately. See DIR 630.50 for further requirements.

Investigations and Reporting (1010.10)

The Police Bureau recognizes the importance of conducting a thorough, impartial and timely investigation into in-custody deaths and the use of deadly force by its members. The investigation into the events surrounding such incidents is of critical importance to the involved member(s), the Bureau and the community. It is the responsibility of all Bureau members to assist in these investigations for the purpose of determining justification as well as to identify any training and/or performance deficiencies. The Bureau also recognizes the impact these traumatic incidents have on its members and acknowledge the need to be sensitive when conducting the required investigation. Recognizing these dual responsibilities, the following procedures serve to meet both goals.

The investigation of all incidents involving the use of deadly physical force and/or the death of an individual in police custody will be the responsibility of the Detective Division. This will require Homicide Detail supervisors to respond and assume responsibility for the investigation of the incident.

Communication Restriction Order (1010.10)

- a. A communication restriction order (CRO) will be issued in writing by the Chief or as delegated to a member of the Detectives' Homicide Detective Detail. Issuing a CRO will include:
 1. Providing a copy of the CRO to all witness and involved members before they leave the scene.
 2. Providing a copy of the CRO to a Detective Homicide Detail supervisor.
- b. Documenting that the CRO was issued, and to whom.
- c. Union representatives shall not communicate to either involved members or witness members what has been told to them by an individual they are representing.

- d. The CRO generally will continue until the conclusion of the Grand Jury or, if no Grand Jury is held, until a disposition is entered by the District Attorney. The CRO may be extended. Reasons for the extension may include:
 - 1. For purposes related to the Administrative Review.
 - 2. While the case is under review by another law enforcement agency (i.e., FBI civil rights review, outside agency, etc.).
 - 3. The decision to extend the CRO will be made on a case by case basis, at the direction of the Chief of Police.
- e. Members not involved in a deadly force or in-custody death incident, shall not communicate with a member who has been designated as an involved or witness member, about factual aspects of the investigation at hand, unless authorized to do so and until the involved or witness member is no longer under a CRO.
- f. Members may speak with Traumatic Incident Committee (TIC) members. Members should avoid directly discussing factual aspects of the incident with TIC members, as the TIC members are directed to steer the conversation away from the facts and focus instead on the emotional issues confronting the member(s).
- g. Separation of all witness and involved members is necessary in order to safeguard the integrity of the investigation. If the number of individuals to be physically separated is so great to be impractical, a supervisor or detective will be posted to ensure that no communication regarding the incident takes place.

Duties and Responsibilities When Deadly Physical Force is Used or an In-Custody Death Occurs inside Portland during a Police Action (1010.10)

Member Responsibilities (1010.10)

- a. Members as soon as practical will notify the on-scene supervisor and advise them of the member's role in the incident (i.e., witness member, involved member, assisted at the scene). This notification shall be to identify those members involved. This notification is intended to identify those members which detectives must attempt to interview in conjunction with their investigation of the incident. This notification is not intended to compel any statements or the production of any evidence by any involved member.

Involved Members Responsibilities (1010.10)

- a. The member will first notify an on-duty supervisor at the precinct of occurrence, as well as his/her own supervisor, if assigned to a precinct or division other than the precinct of occurrence. The notifications will take place as soon as possible.
- b. The member, unless injured, will remain at the scene until released by an on-scene supervisor. The release from the scene must be approved

- by the Homicide Detail sergeant. The member will not be held at the scene any longer than necessary.
- c. The involved member will make it known to the on-scene supervisor that they are an involved member, as defined.
 - d. The involved member(s) will be afforded all rights guaranteed under the United States and State of Oregon Constitutions and the benefits of the current collective bargaining agreement throughout the investigation.
 - e. The member will be provided time to discuss the incident with his/her immediate supervisor, RU manager, union representative, and private attorney. Members will not discuss the incident with anyone other than those covered in the Communication Restriction Order once it is issued, until the Communication Restriction Order is removed.
 - f. The involved member will be asked, but not required, to voluntarily discuss the incident with Detectives in order to ensure the prompt and accurate processing of the scene.
 - g. In situations requiring Detectives involvement, the member will not drive a vehicle following the incident. An uninvolved member will be assigned to transport each involved or witness member.

Witness Member Responsibilities (1010.10)

- a. Witness members will make it known to the on-scene supervisor if they are a witness to the incident (as defined) or assisted at the scene.
- b. All witness members, unless injured, will remain at the scene until released by the Homicide Detail sergeant. Witnesses will not be held at the scene any longer than necessary.
- c. Witness members, if requested, are required to give an on-scene briefing to detectives in order to ensure that the scene is processed properly.
- d. All witness members will be afforded all rights guaranteed under the United States and State of Oregon Constitutions and the benefits of the current labor agreement throughout the investigation.
- e. Witness members will not discuss the incident with any other person other than their immediate supervisor, RU manager, detectives, and their union representative prior to the conclusion of their investigative interview. Members will not discuss the incident with anyone other than those covered in the Communication Restriction Order once it is issued, until the Communication Restriction Order is removed.
- f. Witness members will be required to submit to an interview prior to going off shift. If injured, the witness will be interviewed when medically stable.
 - 1. Exceptions must be limited to those situations where the number of witnesses or the complexity of the crime scene make it necessary for the investigators to obtain additional details of the incident prior to beginning an interview.

2. Those exceptions must be approved by the Detective Division Commander.

First Arriving Supervisor Responsibilities (1010.10)

- a. After complying with Directive 640.10 (secure scene and render first aid), complete the following:
 1. Separate all witness and involved members. If the number of individuals to be physically separated is so great to be impractical, a supervisor or detective will be posted to ensure that no communication regarding the incident takes place.
 2. Ensure that a single entry point into and out of the scene is established and advise BOEC of its location.
 3. Ensure that a Crime Scene log is maintained at the entry point.
 4. Make required notifications.
- b. Required notifications, in the following order:
 1. Detective Division Homicide Detail Sergeant (up team).
 2. Forensic Evidence Division (Forensics).
 3. Appropriate precinct or division commander. This would include the precinct of occurrence if the involved member is from a precinct or division separate from that of the occurrence.
 4. Public Information Officer (PIO).
 5. EAP Coordinator.
 6. The appropriate bargaining unit representative.
- c. Ensure witness and involved members weapons are retained in their holsters pending weapon examination by responding detectives.

Precinct or Division Commander Responsibilities (1010.10)

- a. The precinct or division commander will notify the appropriate Branch chief and/or the Chief of Police.

Chief of Police's Responsibilities (1010.10)

- a. The Chief of Police will make the appropriate notification to the Commissioner in Charge and the Deputy City Attorney.

Detective Division Homicide Detail Responsibilities (1010.10)

- a. The Detective Division Homicide Detail will be responsible for all investigative duties of an in custody death and a deadly force incident, to include the following:
 1. Completion of the Investigative Report.
 2. Scene sketches.
 3. Diagrams.
 4. Evidence processing.
 5. Interviews of involved members and supervisors.
 6. Interviewing witnesses.
 7. Issuing communication restriction orders.

Homicide Detail Sergeant Responsibilities (1010.10)

- a. Make required notifications:
 1. Detective Division Command.
 2. On-call detectives.
 3. District Attorney's office.
 4. Medical Examiners office.
 5. Forensic Evidence Division, and ensure that criminalists are responding to the scene.
- b. Request assistance from the East County Major Crime Team.
- c. Respond to the scene and assume responsibility for the scene after receiving a briefing from the on-scene commander.
- d. Take charge of the investigation.
- e. Obtain a list of all members and their role in the incident from the on-scene supervisor.
- f. Make investigative and scene processing assignments.
- g. Ensure the appropriate checklists are used and case notebooks are prepared.
- h. Ensure that the communication restriction orders are issued.
- i. Ensure that all weapons have been examined, documented, as appropriate and ensure that the member is supplied with a replacement weapon by Training, if appropriate.

Detectives Responsibilities (1010.10)

- a. Conduct a complete and thorough investigation of the incident. That investigation will be used to determine justification for the use of deadly physical force, as well as to identify any training or policy concerns regarding the member's actions.
- b. Conduct interviews of all witness and involved members and use the interview checklists, ensuring all applicable areas are covered. All interviews wherein material facts of the case are discussed will be tape-recorded in its entirety.
- c. Interview civilian witnesses and attempt to tape-record their statement.
- d. Ensure that his/her reports include detailed information related to any weapons involved, all shots fired and each shot's trajectory and point of impact (if determinable) and any injury or damage to property.
- e. Collect and submit all weapons involved in a deadly force incident, including SERT weapons, to the Oregon State Crime Lab for appropriate testing, documenting their condition as found to include serial number, rounds in chamber, and number of rounds in each magazine.
- f. Complete a Summary Report and case notebooks to include all transcripts of all taped statements.
- g. Submit all cases involving intentional use of deadly force, in-custody deaths and negligent discharge resulting in injury to another, to the District Attorney's office for review.

Duties and Responsibilities when Deadly Force is Used or an In-Custody Death Occurs Outside Portland During a Police Action by a Bureau Member (1010.10)

- a. Involved member.
 - 1. Notify the jurisdiction of occurrence.
 - 2. Notify your supervisor.
- b. Supervisors.
 - 1. Supervisors will make notification as required of the on-scene supervisor.
- c. Detective Division Homicide Detail.
 - 1. Respond to the scene, if feasible.
 - 2. Serve as the Bureau liaison.

Duties and Responsibilities when Deadly Force is Used Against a Bureau Member in the City of Portland (1010.10)

This will be treated in the same manner as deadly force used by a member, for notification purposes.

Detective Division will be notified in all cases and will assume investigative responsibility.

Use of Deadly Force or an In-Custody Death inside Portland by a Member From Another Jurisdiction (1010.10)

If such police action results in the use of deadly physical force against a person or an in-custody death occurs, the Bureau will normally be the investigating agency. Detectives will be responsible for the investigation.

The on-scene supervisor will ensure that an on-duty supervisor of the police officer's agency is notified. Unless there is some immediate need to seize weapons, the involved members will be allowed to keep his/her weapon(s) until his/her agency supervisor arrives. Upon arrival, the agency supervisor will take custody of the firearm and, if necessary, surrender it to the investigator.

In order to enhance community understanding of situations, the Precinct Commander and Branch chief will be notified so that they may determine the need for community notification and information dissemination.

First Arriving Supervisors Checklist for Deadly Force or In-Custody Death (1010.10)

- a. Upon arrival at the scene, and as soon as practical and safe after the use of deadly force has occurred, the supervisor will:
 - 1. Determine the condition of all involved members and injured citizens, and ensure medical treatment is provided. If ambulance transport is required, ensure that an uninvolved member is assigned to accompany the injured member or citizen to the hospital (in the ambulance). If an involved member is injured, requires treatment and does not require ambulance transport, an uninvolved member should be assigned to transport the involved member to an appropriate facility.

2. Establish a perimeter, staging area and a single entry point into the scene and broadcast this information on the radio.
3. Separate all witness and involved members. If the number of individuals to be physically separated is so great to be impractical, a supervisor or detective will be posted to ensure that no communication regarding the incident takes place.
4. Make notifications:
 - a) The Detective Division Homicide Detail Sergeant (up team).
 - b) Forensic Evidence Division (Forensics).
 - c) The appropriate precinct or division commander. This would include the precinct of occurrence if the involved member is from a precinct or division separate from that of the occurrence.
 - d) The PIO.
 - e) The EAP Coordinator.
 - f) The appropriate bargaining unit representative.
5. Ask each member on scene what his/her role was in the incident (involved member, witness member, assisted at scene), and document on a log sheet. Instruct the involved members and witness members to not discuss the incident among themselves or with any other person, except their immediate on-scene supervisor, union representative and private attorney, prior to being interviewed by a detective.
6. Maintain integrity of witness and involved members weapons. If holstered, ensure it is retained there pending weapon examination by responding detectives. Weapons not still in custody of the member, but still in the crime scene, will be left as evidence if the situation is stable and safe to do so.
7. Ensure that notification of the appropriate bargaining unit has occurred. Notify the involved and witness members that they have the right to have a union representative present through all stages of this process.
8. Unless injured, do not release involved members and witness members from the scene without the approval of a Homicide Detail Sergeant.
9. Assign an uninvolved member to drive each involved member. Witness members may drive themselves. Whenever practical, each involved member and witness member should be transported in a separate vehicle.
10. Upon release from the scene, instruct the involved members, witness members and drivers of the following:
 - a) Proceed to Detectives.
 - b) Involved members and witness members, prior to changing out of the clothes worn at the time of the incident, must confer with the Homicide Detail Sergeant.
 - c) The assigned criminalists, at the direction of the lead detective, will collect all evidence including involved members' uniform

and all outer clothing (including duty belt) and retain as evidence until instructed otherwise by the lead Detective of the investigation. This instruction should be relayed to any uninvolved member that accompanied an injured involved member to the hospital.

d) Exceptions will be authorized by the Homicide Detail Sergeant.

11. Instruct members and witness members to remain at the Detectives until instructed otherwise by the lead detective or they are released from Detectives with the approval of the Homicide Detail Sergeant.

1010.20 Physical Force

Index: Title:

Refer: ORS 161.015 (7) Physical Injury, defined
ORS 161.205 – 161.265 Use of Physical Force
DIR 630.45 Emergency Medical Custody Transports
DIR 630.50 Emergency Medical Aid
DIR 910.00 Field Reporting Handbook Instructions
DIR 940.00 After Action Reports

POLICY (1010.20)

The Portland Police Bureau recognizes that duty may require members to use force. The Bureau requires that members be capable of using effective force when appropriate. It is the policy of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical.

The Bureau places a high value on resolving confrontations, when practical, with less force than the maximum that may be allowed by law. The Bureau also places a high value on the use of de-escalation tools that minimize the need to use force.

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.

It is the policy of the Bureau that members use only the force reasonably necessary under the totality of circumstances to perform their duties and resolve confrontations effectively and safely. The Bureau expects members to develop and display, over the course of their practice of law enforcement, the skills and abilities that allow them to regularly resolve confrontations without resorting to the higher levels of allowable force.

Such force may be used to accomplish the following official purposes:

- a. Prevent or terminate the commission or attempted commission of an offense.
- b. Lawfully take a person into custody, make an arrest, or prevent an escape.
- c. Prevent a suicide or serious self-inflicted injury.
- d. Defend the member or other person from the use of physical force.
- e. Accomplish some official purpose or duty that is authorized by law or judicial decree.

When determining if a member has used only the force reasonably necessary to perform their duties and resolve confrontations effectively and safely, the Bureau will consider the totality of circumstances faced by the member, including the following:

- a. The severity of the crime.
- b. The impact of the person's behavior on the public.
- c. The extent to which the person posed an immediate threat to the safety of officers, self or others.
- d. The extent to which the person actively resisted efforts at control.
- e. Whether the person attempted to avoid control by flight.

- f. The time, tactics and resources available.
- g. Any circumstance that affects the balance of interests between the government and the person.

The Bureau's levels of control model describes a range of effective tactical options and identifies an upper limit on the force that may potentially be used given a particular level of threat. However, authority to use force under this policy is determined by the totality of circumstances at a scene rather than any mechanical model.

PROCEDURE (1010.20)

Directive Specific Definitions

Force: Physical contact that is readily capable of causing physical injury, as well as the pointing of a firearm.

Physical injury: As defined in ORS 161.015 (7), the impairment of physical condition or substantial pain.

Precipitation of Use of Force Prohibited (1010.20)

Members should recognize that their approach to confrontations may influence whether force becomes necessary and the extent to which force must be used.

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 practice.

Vehicles (1010.20)

Due to the risks involved, members should not enter an occupied vehicle capable of being driven (i.e., engine running or keys in the ignition) except to address an immediate threat of death or serious physical injury to any person.

Post Use of Force Medical Attention (1010.20)

When a member is involved in the use of force in which physical injury has occurred or there is reason to believe there may be a physical injury, the member, if able, shall:

- a. Continually monitor the subject if tactically appropriate or feasible. The member shall 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 shall notify EMS immediately. See DIR 630.50 Emergency Medical Aid for further requirements.
- b. Request EMS evaluate and treat those persons involved and injured prior to removal from the scene.
- c. When pepper spray has been applied to a person, make every attempt to provide relief from the pepper spray exposure and move the person into an area of open air.
- d. Contact the immediate supervisor and brief the supervisor on the incident.

- e. 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.
- f. 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.

If a person has been placed in maximum restraints or on the ground for control, members must do the following as soon as practical:

- a. Release pressure/weight from the person's back or upper body.
- b. Check and continue to monitor the person's breathing and pulse until EMS arrives.
- c. 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.
- d. Provide EMS with an update on the person's condition if it appears to worsen.

For important additional guidance on transporting injured persons, see DIR 630.45 Emergency Medical Custody Transports.

Duty to Report and Notification and Reporting (1010.20)

Members have a duty to report any use of force that violates this Directive.

Members shall make a report when they use force to their supervisor or designee. Reports must be complete and accurate and describe the subject's behavior and the justification for the force used including a description of the totality of circumstances that existed.

A member who causes physical injury or who takes a person to the ground by applying force will complete a Force Data Collection Report (FDCR) in addition to any other reports required by Bureau policy. A member who applies a control hold that does not cause physical injury is not required to complete a FDCR for the control hold application. A member who applies a hold to gain control of a person, who follows commands and goes to the ground voluntarily without the application of additional force, is not required to complete a FDCR.

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.

The following circumstances do not require a FDCR:

- a. Bureau approved training exercises (i.e., an in-service patrol tactics class).
- b. A member unknowingly points a weapon at a person during a building search or other high risk situation (i.e., an undiscovered person was hiding behind an object at which a member pointed a weapon).

If a member's use of force results in a person being admitted to an overnight hospital stay for treatment, a supervisor will complete an after action report. The supervisor will forward the after action report, through their chain of command, to the appropriate Branch chief. The member's RU manager will forward a copy of the after action to the Internal Affairs Division and the Training Division.

If the member is injured and unable to submit a report, the report 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 physical force which requires any person to receive medical attention.

Supervisors will ensure that members comply with the reporting requirements. Members shall follow DIR 940.00 After Action Reports as it pertains to specific reporting requirements.

Canine (K-9) Bites (1010.20)

Canine handlers shall complete a FDCR for all bites that follow a member's intentional application of a police canine for the purpose of biting. The canine's handler will articulate the justification for the application of the canine and will state whether the bite was directed or not directed by the handler.

All police canine bites will be administratively reported by a supervisor, through channels, to the appropriate Branch chief in an after action report using the Bureau's standard format.

Handcuffing (1010.20)

Although handcuffing is not defined as physical force in this directive, Bureau policy requires that members document each handcuffing in a police report (i.e., Investigation, Custody or Special).

Supervisor Responsibilities (1010.20)

- a. Supervisory Review of Reports
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. Supervisors shall address deficiencies in reports promptly.
- b. Discipline Case Review Process
Supervisors are required to address all requirements of force policies when preparing proposed findings in misconduct investigations and must include all available information on the totality of circumstances.

Semi-annual Review of Use of Force (1010.20)

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

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:

- a. Ensure consistency and fairness.

- b. Provide feedback to officers on force and confrontation decision making.
 - c. Identify training needs based on trends.
 - d. Create a positive learning environment.
-

**PORTLAND POLICE BUREAU
TRAINING DIVISION
STANDARD OPERATION PROCEDURES**

S.O.P.	1-11
Effective	January 13, 2009
Review	January 13, 2010

SUBJECT: REVIEWS FOR THE PERFORMANCE AND USE OF FORCE BOARD

PURPOSE: To outline Training Division procedures for conducting formal reviews for the Performance and Use of Force Board.

POLICY: The Training Division will conduct a formal review of the following incidents:

1. Officer involved shootings.
2. Serious injury caused by an officer that require the subject to be admitted to a hospital.
3. All in custody deaths.
4. Accidental discharges that occur outside of an authorized range.
5. Any cases referred by the Chief or Branch Chief of Police.

PROCEDURE:

1. Once the Detective investigation is completed, the Training Division Commander will receive a copy of the completed investigation. The Training Division Commander will review the case and assign it to a member of the Training Division staff.
2. The assigned Training Division staff member will review the case and consult with other Division staff members as necessary.
3. The assigned Training Division staff member will prepare a written report and forward it to the Training Division Commander for review. The report will follow the following format:
 - A). Summary of the training that each involved member has received, with particular emphasis placed on the training that is related to the incident being reviewed.
 - B). Tactics used by the involved members.
 - C). Conclusion as to whether or not the involved members followed training doctrine.
 - D). Recommendations for future training needs.

4. The Training Division staff member who conducted the review will present the review to the Performance and Use of Force Board.

The Training Division Commander will provide a copy of the review to the Branch Assistant Chief and the Review Board/Discipline Coordinator when the report is completed.

John A. Teles

Commanding, Training Division

**PORTLAND POLICE BUREAU
DETECTIVE DIVISION
STANDARD OPERATING PROCEDURE**

S.O.P. #37

June 21, 1988

Revised: September 19, 2008

Review: September 19, 2009

I. SUBJECT

Detective Division and Homicide Detail Response to Officer Involved Shootings, Officer Use of Deadly Physical Force, and In-Custody Deaths

II. PURPOSE

To establish notification procedures and to provide guidelines for responding to officer involved shootings, use of deadly physical force, and in-custody deaths.

III. PROCEDURE

When an Officer Involved Shooting, Use of Deadly Physical Force, or in-custody deaths occur, the following procedure will be followed:

- A. Standard notifications of the on-call Homicide Detail Sergeant and on-call Homicide Up-team will occur. The Homicide Detail Sergeant and Up-Team will be called on all officer involved shootings (that are not for the destruction of an animal or at an approved firing range) regardless if anyone was hit and the appropriate notifications will be made. They will also be called on all officer involved uses of deadly force and in-custody deaths. Deadly force investigations will be lead by a member of rank equal to or greater than the witness or involved members.
 - 1. In addition to the on call Homicide Up-team and sergeant, the afternoon detective sergeant and detectives will respond during their normal shift. The first arriving Sergeants or Detectives will:
 - a. Secure and preserve the integrity of the scene, if not already accomplished by uniform personnel.
 - b. Separate officer(s) involved or post a Detective with involved/witness members to ensure no discussion occurs regarding the incident.
 - c. Separate citizen witnesses.
 - d. Coordinate with uniform to obtain a comprehensive list of all witnesses contacted.

2. The Homicide Detail Sergeant will ensure notification of:
 - a. Up-Team and Crime Scene Team
 - b. District Attorney
 - c. Homicide Lieutenant
 - d. Commander, if unable to make personal contact with the Lieutenant (The Commander will notify the Assistant Chief)
 - e. Criminalist
 - f. Medical Examiner
 - g. PIO
 - h. East County Major Crimes Team
 - i. Other notifications as required
 3. Involved officers, unless injured, will remain at the scene to orient the Homicide Up-Team upon their arrival, unless the officers' demeanor or safety dictates the need to be transported to the Detective Division immediately. Only the Homicide Detail Sergeant can approve the release from the scene.
- B. Homicide Detail Sergeant Responsibilities: utilize Homicide Supervisor's Checklist (Appendix A)
1. Ensure above notifications have been completed.
 2. Assume responsibility for the crime scene and supervision of the entire investigation, to include assigning, directing and coordinating follow-up work by the detectives.
 3. Coordinate with Uniform Sergeant(s), and other investigative teams any work that needs to be done for the investigation.
 4. Obtain the medical status and/or verify the extent of injury or death to the suspect/officer. Ensure the seizure and receipt of clothing as evidence and the identification of medical personnel on duty.
 5. Ensure that a count down of the involved member's weapon has been completed and that a replacement weapon from Training Division is provided.
 6. Ensure Communications Restrictions Orders are issued in accordance with Directive 1010.10.

7. Ensure trajectory analysis to determine each shot's bullet path and point of impact, if determinable will be conducted and reported in accordance with Directive 1010.10.

C. Responsibility of Up-Team Homicide Detectives:

1. It is the responsibility of the Primary Detectives to conduct a thorough and unbiased investigation into the use of deadly force, including what led up to the incident, the incident itself, and actions of members after the incident.
2. The Primary Team should not become involved in extraneous interviews, neighborhood canvassing, scene processing, etc.
3. The Primary Team Detectives will attempt to obtain timely interviews with all involved.
4. Detectives will ask involved members to participate in a voluntary interview. The request, date and time and response of the members will be noted in the Detective's investigative report.
5. Detectives will identify who the involved members have spoken to regarding the incident.
6. Attend the autopsy.
7. Detectives will prepare a completed case notebook, ready for distribution, no later than 30 days following a Grand Jury verdict. If no Grand Jury is convened, the completed case notebook, ready for distribution, will be completed no later than 30 days following this decision.
8. Detectives will prepare a presentation utilizing PowerPoint software for presentation to the Use of Force Review Board.

C. Responsibility of Crime Scene Detectives and secondary investigators as directed by Homicide Sergeant:

1. Processing physical evidence at the scene.
2. Prepare a diagram of the scene.
3. Assist in interviews of sworn and civilian witnesses as identified. (All interviews should be tape-recorded).
4. Attend all investigative meetings.

D. Guidelines for interviews of officers involved in shootings, use of deadly physical force, and in-custody deaths.

Involved officers will not be "ordered to participate" in interviews or on scene "walk through." The only exception would be an agreement discussed and planned by the Homicide Detail Sergeant and the Deputy District Attorney on scene. Interviews of witness or involved members of command rank will be conducted by, or in the presence of, a member of equal or greater rank to the member being interviewed.

1. Shooting Scene

- a. The on-scene briefing is a brief overview of the incident given to detectives or others as necessary, for the purpose of accurately processing the scene. An on-scene briefing may include but would not be limited to, the identification of crime scene(s), the identification of other members present, the identification of potential witnesses, and the identification of evidence at the crime scene(s).

2. Officer Information

- a. The primary investigator will ask the involved member if they are willing to make a statement and conduct an on scene "walk through."
- b. Explain investigative process and set appointments for an interview (assuming officer has consulted with attorney furnished by the union).
- c. The Homicide Lieutenant will issue a Communications Restriction Order to the involved/witness officers and any other individuals deemed appropriate.
- d. Allow time for personal considerations:

The involved member(s) will be afforded the benefits of the current collective bargaining agreement throughout the investigation. They will be provided time to discuss the incident with his/her immediate supervisor, RU manager, union representative, and private attorney.

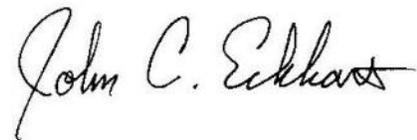
3. Interviews

Detectives will utilize the attached interview checklist (Appendix B) and ensure all relative questions are asked. Investigators will take time to meet with Detective Command Staff to discuss interview questions and issues prior to interviewing the involved members.

4. Post Interview

- a. Ask that the officers recontact detectives for a second interview should they recall additional information.
- b. Explain judicial process to the officer (Grand Jury or possible Coroner's Inquest).
- c. Ensure an explanation is given for altered duty status and the requirement to consult with a psychiatrist or psychologist.

- d. Ensure an explanation is given on all possible civil litigation and resources available to them.
5. Other Responsibilities
- a. Conduct interviews of other officers or civilian witnesses that may have arrived at the Detective Division, other than those interviewed by the secondary team(s).
 - b. Dictate and transcribe (when appropriate) all pertinent reports and interviews
 - c. The primary investigator will insure the Communication Restriction Order is rescinded as soon as possible in accordance with guidelines listed in order.



JOHN C ECKHART
Commander
Detective Division

HOMICIDE SUPERVISOR'S CHECKLIST OFFICER-INVOLVED SHOOTING

CASE NAME: _____ DATE/TIME: _____

LOCATION: _____

LEAD INVESTIGATOR: _____

CASE NUMBER: _____

SUBMITTED BY SERGEANT: _____

LEGEND: X = COMPLETED; O = NOT COMPLETED; N/A = NOT APPLICABLE

UPON NOTIFICATION

- | | | |
|-------|----------------------------------------------------------------|-------------------------|
| _____ | 1. Insure Primary Investigator notification | Date: _____ Time: _____ |
| _____ | 2. Insure Secondary Investigator notification | Date: _____ Time: _____ |
| _____ | 3. Insure Lieutenant notification | Date: _____ Time: _____ |
| _____ | 4. Insure Medical Examiner notification | Date: _____ Time: _____ |
| | Name of Medical Examiner: _____ | |
| _____ | 5. Insure Crime Scene Team notification | Date: _____ Time: _____ |
| _____ | 6. Insure Identification Division notification | Date: _____ Time: _____ |
| _____ | 7. Insure District Attorney notification | Date: _____ Time: _____ |
| | Name of District Attorney: _____ | |
| _____ | 8. Insure East County Major Crime Scene Team notification: | Date: _____ Time: _____ |
| | Name of Detectives: _____ | |
| _____ | 9. Insure Training Division notification: | Date: _____ Time: _____ |

AT SCENE - UPON ARRIVAL - (STABILIZATION PHASE)

- _____ 1. Determine safe path into scene and single entry point into scene..
- _____ 2. Determine time arrived on-scene.
- _____ 3. Evaluate/insure scene security - coordinate with Lieutenant.
- _____ 4. Establish the identity of the involved officer(s).
- _____ 5. Establish identity of all officers on-scene.
- _____ 6. Evaluate uniform personnel assignments - coordinate with Lieutenant.
- _____ 7. Insure witness identification and separation - including police officers that are witnesses.
- _____ 8. Evaluate search warrant requirements with on-scene District Attorney and investigators.
- _____ 9. Insure Detectives inquire regarding who involved officer(s) have spoken to about the incident.
- _____ 10. Insure coordination between team members, Crime Scene Team, Identification Division, and Major Crimes Scene Team.
- _____ 11. Insure adequate number of investigators are at the scene or en route.
- _____ 12. Evaluate investigative assignments - availability and experience.
- _____ 13. Coordinate on-scene investigation and other related scenes.
- _____ 14. Direct/coordinate investigations at hospital - evidence collection.

AT SCENE - UPON ARRIVAL - (STABILIZATION PHASE)(continued)

- ___ 15. Evaluate/coordinate the need for special equipment.
- ___ 16. Verify Public Information Officer is at scene, or en route.
- ___ 17. Verify Medical Examiner status - on-scene, or en route.

AT SCENE AND DURING INVESTIGATIVE PHASE

- ___ 1. Insure immediate area canvass - location of additional witnesses.
- ___ 2. Coordinate on-scene investigation and subject search, as required (BOLO/APB, person of interest file, known subjects, address checks).
- ___ 3. Coordinate and insure thorough field searches, as required.
- ___ 4. Insure/coordinate lines of communication between interviewing investigators and scene personnel.
- ___ 5. Coordinate investigative effort with other departmental entities.
- ___ 6. Coordinate on-scene witness statements.
- ___ 7. Coordinate investigative effort with other police agencies.
- ___ 8. Insure all physical evidence has been located, identified and collected from all scenes.
- ___ 9. Coordinate on-scene briefings with Homicide Detectives, Deputy District Attorney, Medical Examiner, and Identification Division emphasizing team approach.
- ___ 10. Coordinate press releases with Public Information Officer.
- ___ 11. Request an on-scene debriefing with involved officer(s) or witness officer(s). Document response.
- ___ 12. Insure Homicide Detectives have asked involved officer(s) for a voluntary statement.
- ___ 13. Conduct on-scene critique, with all concerned personnel, prior to leaving scenes - includes secondary scenes and hospitals.
- ___ 14. Insure appropriate charges are placed on subject.
- ___ 15. Schedule, and coordinate with Lieutenant, briefing with Division Commander, Assistant Chief of Investigations, and Assistant Chief of Operations.
- ___ 16. Insure all personnel involved in investigation have the correct case number.
- ___ 17. Conduct an on-scene critique with Investigative Team to insure complete scene processing and evidence collection.
- ___ 18. Insure uniform sergeant on-scene has accounted for all firearms of involved officer(s).
- ___ 19. Insure team meetings occur, as time allows, prior to major interviews.

OFFICE

- ___ 1. Inform supervisors of case progress.
- ___ 2. Coordinate/insure expeditious flow of evidence through Crime Lab entities.
- ___ 3. Insure appropriate background investigations are completed.
- ___ 4. Insure expeditious follow-up of all pending leads.
- ___ 5. Insure completion of police reports.
- ___ 6.. Coordinate, as required, obtaining reports from other entities.
- ___ 7. Coordinate release of officer's firearm(s).
- ___ 8. Conduct team briefing and critiques as training process.
- ___ 9. Insure Crime Lab evidence was processed and preliminary results obtained.
- ___ 10. Insure complete and organized case file is prepared and maintained.

OFFICER INVOLVED USE OF DEADLY FORCE/IN-CUSTODY
DEATH OUTLINE/CHECKLIST

I. Officers Background

Training and experience Prior law enforcement Prior Military experience
 Other employment

Basic Academy	Y / N
Advanced academy	Y / N
In-Service Training	Y / N
Active Shooter	Y / N
Street Survival	Y / N
AR-15	Y / N
Less Lethal Shotgun	Y / N
Taser	Y / N
CIT	Y / N

Involvement in any other deadly force encounters
 Current Assignment Shift Days off

II. Physical / Mental State of Involved Officer

Generally how was the officer feeling that day?
 Illnesses?
 Amount of sleep?
 Normal amount of sleep?
 Use of any medication (prescription and non-prescription)
 Use of Narcotics or other intoxicants
 Use of Alcohol
 Any arguments or disagreements with spouse, child, supervisor, partner etc.?
 Any other factors that may have affected the officers mental state

III. Officers Activity Prior to the Incident

Tell about the 24 hour period prior to the event
 Activity the night prior to the event (Movies, TV, Party etc)
 Trip to work
 Activity prior to work (Court, Workout, Golf, Sleep etc.)
 Work activity prior to incident? (Number and Type of calls)

IV. Prior information the officer had

Did the officer have any prior contacts with the involved subject?
 Had the officer been on any prior calls to the location?
 How familiar is the Officer with the geographic area?
 Did the officer have any prior information about the individual or location?
(roll call info, teletypes, radio broadcasts, MDT messages, other officers, TPS files).
 Any other information that the officer had about the person or location

V. Details of the incident.

- How did the officer get to the location? (code or not, route taken, speeds, traffic etc.)
- Where/ how did the officer park and approach?
- Was the vehicle used for cover? Describe
- If traveling on foot describe route, running, walking, use of cover, and what objects were available for cover?
- While traveling to location or making approach, were there conversations with partner (plans, tactics)
- Radio transmissions while in route
- What was the officers thought process while in route and approaching?
- Describe the topography of the areas involved. (footing, obstacles, high ground, possible threats)
- Describe the lighting at the location
- What cover was available
- Were you fully identified as law enforcement officers?
- Were other officers present and where were they before, during and after the encounter?
- Were there other witnesses or participants? What were they doing before during and after?

- Describe in detail what was observed by you that made you take the actions you did.
- Describe how the actions of the subject made you feel
- What were you thinking during the encounter?
- What was your thought process?

- What did you say and how did you say it.
- What did other officers say?
- What did the suspect say?
- Did you hear anyone else (other suspects, witnesses)

- Describe when you drew your weapon
- Describe when you pointed your weapon at the suspect
- Describe your stance, grip (flashlight in hand), cover?
- Did you use your sights when you fired?
- What was your point of aim?
- What was your backdrop?
- What do you think the distance was between you and the subject?
- How many rounds do you think you fired? What sequence did you fire these rounds?
- Do you know where your rounds impacted
- What was the subject's reaction?
- Did you reload? If so what did you do with the empty mag
- How is your weapon usually carried? Number of magazines, rounds

- Were other force options available? What were they and why were they used or not used?

VI. Immediately after the encounter

- Describe your actions immediately after the encounter?
- Did you approach the subject?
- Who approached the subject?
- Was the subject handcuffed? Who did the handcuffing?
- Was the subject moved at all? How was the subject positioned?
- Was medical assistance requested and did they respond?
- What was broadcast on the radio?

___ Who approached you and what was said or done?

___ In hindsight do you think incident could have been approached in a way that presented less risk to yourself or others. How?

___ Do you have any suggestions for improving relevant PPB training?

___ Has anyone discussed the details of this case with you or have you learned information about the incident from sources other than your own observations?

VII. In-custody death investigations

___ What contact did you have with the deceased?

___ What contact did you observe others having with the deceased?

___ What were your observations of the subject's physical condition prior to the subject being restrained?

___ How was the deceased restrained and what tactics were used?

___ How was the deceased positioned? Where was the deceased positioned, by whom, and for how long?

___ Did you observe any injuries to the deceased?

___ When did you notice the deceased was having medical problems?

___ How did you and others respond to the medical problems?

___ What is your training regarding the positioning of restrained persons?

PORTLAND POLICE BUREAU
Internal Affairs Division

S.O.P.:	<u>D-02</u>
Effective:	<u>11-01-06</u>
Revision:	<u>1</u>
Review:	<u>11-01-07</u>

I. SUBJECT

USE OF FORCE AND IN-CUSTODY DEATHS

IAD Investigations of:

Officer involved shootings.

Serious injury caused by an officer that requires hospital admission.

All in-custody deaths.

Accidental discharges that occur outside the Shooting Range.

Discretionary cases referred by the Chief or Branch Chief.

II. PURPOSE

This SOP establishes procedures for the investigation of the above mentioned complaints involving Bureau members that will be presented to the Performance and Use of Force Review Boards.

III. POLICY

IAD will review all officer involved shootings and other cases as mentioned above. The review will consist of a list of all relevant policies and a comparison of the officers' actions related to those policies. The IAD Investigator will then present the investigation to the Use of Force Board.

IV. PROCEDURE

1. The IAD Captain will receive a copy of the completed investigation from Detectives. If it is an officer involved shooting, the case will be reviewed and assigned to at least two investigators.
2. IAD will have 10 weeks (70 days) to complete the investigation. The 10 weeks start on the day after IAD receives the case file from Detectives.
3. The investigators will review the case and determine with the assistance of the IAD Captain which policies are relevant. The investigators will then review the reports, interview the involved officers and witnesses (if necessary), and conduct any follow-up necessary to determine whether the actions the officers took were in or out of policy.

4. The investigators will then prepare a report showing the relevant policies and procedures compared to the officers' actions.
5. At the conclusion of the IAD investigation, IAD will forward a copy of the case to the Review Board. The Review Board will collect and send out the Detective, IAD, and Training reports to the RU manager. When the Review Board receives the after-action report from the precinct, she will notify the officer and his/her representative that they have 14 days to review the Detective, IAD (EXCEPT remove the RU manager findings / after-action report), and Training reports. The review will take place in the IAD office. No reports will be copied or taken from the IAD office. The officer and his/her representative will document their viewing of the file by signing a case checkout form.
6. The Review Board will schedule the case for review. The IAD investigators will make a PowerPoint presentation on the case at the scheduled Review Board.

JOHN A. TELLIS
CAPTAIN
Internal Affairs Division

c: Dale Stark, City Attorney's Office



CITY OF PORTLAND, OREGON



Bureau of Police

Dan Saltzman, Police Commissioner
Rosanne M. Sizer, Chief of Police

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

Integrity • Compassion • Accountability • Respect • Excellence • Service

DRAFT shooting review / in-custody death review DRAFT

MEMORANDUM

(Date)

TO:

SUBJECT:

Date/Time/Location of Occurrence:

Involved Members:

Suspect:

Commander's Finding:

Incident Summary:

Decision Point Analysis:

1.

Comment:

2.

Comment:

Commander



CITY OF PORTLAND, OREGON



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DRAFT shooting review / in-custody death review DRAFT

MEMORANDUM

(Date)

TO: Assistant Chief Brian Martinek
Operations Branch

SUBJECT: Commander's Finding
Officer Involved Use of Deadly Physical Force
PPB Case No. 08-00001

Date/Time/Location of Occurrence:

061507 @ 17:30 hours
3663 Park Avenue
Portland, Oregon

Involved Members:

Officer Smith #00000 West Precinct Afternoon Relief
Officer Jones #00000 West Precinct Afternoon Relief
Officer Thompson #00000 West Precinct Afternoon Relief

Suspect – (Deceased):

Johnson, John A MW 051780

Commander's Finding:

Within Policy per Directive 1010.10 – Deadly Physical Force

Incident Summary:

Officer Smith, who is a Field Training Officer, and his new recruit, Phase III Officer Jones, responded as a single unit car to a radio call of a family disturbance located at 3663 Park

Avenue. This residence is an individually numbered duplex with the address in question located on the bottom ground level floor. A one person car, Officer Thompson, was dispatched on the call to serve as a cover car.

Both patrol units arrived at the location at the same time and parked approximately two residences away from the target location. All three officers walked up to the location and Officers Smith and Jones approached the front of the location while Officer Thompson approached the rear of the location.

Officers Smith and Jones heard a male yelling inside the ground floor residence. At that time, a male exited the front door of the residence walking backwards. Officer Smith yelled at the male to turn around. The subject turned around and looked at the officers. Both officers saw a handgun in the subject's hand, ordered him to drop the gun and lie on the ground. The subject complied by dropping the gun and lying on the ground. As the subject complied with the commands, he switched from yelling and swearing at the individuals inside the residence to yelling and swearing at Officers Smith and Jones.

Officer Thompson heard the commotion in the front of the residence and arrived in the front yard and saw the subject on the ground with a gun lying by his side.

The three officers decided to approach the subject and take him into custody. As they approached, the subject lunged for his weapon, grabbed it, and began to point his weapon toward the officers. Officers Smith and Thompson fired their duty weapons at the subject striking the subject in the head and the upper back.

The subject was pronounced deceased on the scene by Portland Fire Bureau medics.

Decision Point Analysis:

1. Officers Smith and Jones, a two-person car, got dispatched to a family disturbance call. They responded as a single unit car, due to Officer Jones being a new recruit, and have a second one-person car assigned to their call as a cover car.

Comment: Appropriate conduct by officers. A minimum of a two car response to family disturbance calls is recommended procedure.

2. Both responding units parked down the street from the residence.

Comment: Appropriate conduct by officers. The Training Division instructs the officer safety tactic of parking down the street from the actual address of the call and walking to the address of the call. This helps officers avoid being seen while arriving at the address and allows them to gather more information about the location of the call.

3. As the officers walked to the address of the call, Officers Smith and Jones decided to approach the front of the residence and decided that Officer Thompson would cover the rear of the residence.

Comment: Appropriate conduct by officers. As the officers walked to the target location, they developed a basic plan on how to approach the residence. The decision to have Officer Thompson cover the rear of the residence was a good tactical decision in case any occupant of the residence might exit from the rear and possibly approach the officers from the rear of the location. If this were to happen, a person would have the opportunity to approach Officers Smith and Jones from behind which is an officer safety concern and places the officers in a tactical disadvantage.

4. Officers Smith and Jones observed a male exiting the target location walking backwards out of the front door. Just prior to this male exiting the residence, they heard a male yelling from within the target location. Officer Smith yelled at the male to turn around.

Comment: Appropriate conduct by officers with tactical considerations. It was appropriate for Officer Smith to yell at the male exiting the location, hopefully to startle the male and take advantage of the element of surprise, and attempt to gain control of the situation. The tactical consideration was neither Officer Smith nor Officer Jones indicated via the radio that a male subject exited the front of the residence. It was appropriate for both officers to immediately control the subject and to focus on the subject's actions. A consideration for debrief discussion would be when it would have been feasible for the officers in front of the location to notify other officers, via radio, of their actions. Officer Smith yelling commands for the subject to turn around was appropriate conduct.

5. When the subject turned around to look at the officers, they observed a weapon in his hand and then ordered him to drop the gun and lie on the ground.

Comment: Appropriate conduct by the officers. It should be noted that the officers did not have hard cover nearby. Giving commands to the subject who had a weapon and simultaneously moving to hard cover, which was not nearby, was not a tactically sound option. There is a time when a tactical retreat is the most prudent option. In this specific instance, the officers' maintaining their position was the proper tactic.

6. Officer Thompson heard the commotion in the front yard, heard "gun" mentioned and then moved his position to the front yard.

Comment: Appropriate conduct by the officer. Though giving up a perimeter position is not usually beneficial, the loss of this position in order to cover officers against a subject with a weapon is the tactically sound option to be made.

7. The three officers decided to approach the subject and take him into custody.

Comment: Within policy, but the officers showed poor tactical judgment. The officers have been trained on a three person approach to take a subject into custody on a high-risk

incident. In this specific situation, the subject was prone out on the ground, but the gun the subject was holding was lying nearby. The officers should have moved to hard cover as a tactical unit and then given the subject commands to crawl away from his weapon.

8. As the officers approached the subject, the subject grabbed his weapon and then pointed the weapon at the officers. At this time, Officers Smith and Thompson fired their weapons at the subject and struck the subject.

Comment: Once the subject threatened the officers by reaching for his weapon, it was appropriate conduct for Officers Smith and Thompson to deploy deadly force on the subject.

9. All three officers approached the subject, handcuffed and searched the subject, placed him in the post-shooting position and called for EMS assistance.

Comment: Appropriate conduct by the officers.

Steven J. Harris

Commander
West Precinct

PORTLAND POLICE BUREAU

**EMPLOYEE ASSISTANCE PROGRAM
Manual**



Tom Potter Mayor

Rosanne M. Sizer Chief of Police

Table of Contents

Mission Statement

Employee Assistance Program Components

EAP Activations.....TAB 1

- Deadly Force
- Non-Shooting Traumatic Events
- Seriously Injured Officer/Line of Duty Death
- Crisis Intervention/Welfare Check

EAP Teams.....TAB 2

- Traumatic Incident Committee (TIC) Team Rules and Policies
 1. Team Membership
 2. Initial TIC Team Response
 3. Secondary Response
 4. Follow-up
- Peer Support Team Activation
- Chaplaincy Program
- EAP Office/Senior PASS

Education and Training.....TAB 3

- CISM/Individual Crisis Intervention and Peer Support
- CISM/Basic Group Crisis Intervention
- Critical Incident Stress Reactions
- Critical Incident Stress Reaction Symptoms
- Critical Incident Stress Debriefings (CISD)
- CISD: What's Involved

Resources.....TAB 4

AppendicesTAB 5

- i DIR 210.23 Administrative Leave Policy
- ii DIR 210.90 Recognition and Awards
- iii DIR 240.00 Employee Assistance Office (EAP)
- iv DIR 240.10 Line of Duty Death
- v DIR 1010.10 Deadly Physical Force; including Reporting Requirements
- vi ORS 181.860 Peer Support Counseling Sessions; Confidentiality
- vii Chaplaincy Agreement
- viii Memo – Adjusted Time

■ Deadly Force

If a traumatic event is part of an on-duty use of force incident, the EAP Coordinator and assigned TIC personnel will respond to the scene of the event and act in accordance with Directive 1010.10 (See Appendix V for Directive 1010.10). The EAP Coordinator will contact the on-scene supervisor and advise them that they are available to assist the involved Bureau members. TIC personnel will contact the EAP Coordinator and/or on-scene supervisor and advise them of their arrival. All EAP personnel will respect crime scene integrity and will not enter the crime scene.

Upon contacting the involved officers, assigned TIC members will:

1. Advise the officers of their purpose and scope of conversation.
2. Read and review the limitations of the state confidentiality statute.
3. Provide the officer with the TIC Packet that contains information regarding referrals, resources, and contact numbers to assist them with the emotional reactions that they may experience in the following days.
4. Brief the officer on the procedures regarding using administrative time, seeing a mental health professional and the subsequent appointment schedule.
5. TIC members should avoid directly discussing factual aspects of a shooting. Although some factual incidents will trigger an emotional response, members should focus on the emotional issues confronting the officer and steer the conversation away from discussing the facts of the shooting.

It is imperative that this contact be made as soon as possible to help the officer begin to normalize the event and process the emotions and reactions that one faces in times of crisis. The number of TIC personnel that respond will coincide with the number of involved officers. The allocation of support is recommended at one to one.

~~TIC members who are directly involved in a traumatic incident, including witness members, will not act in an EAP capacity. At all times members should make sure the EAP Coordinator is notified.~~

EAP Coordinator duties

The EAP Coordinator and/or designee will respond to the scene and act as the liaison with the command staff and the involved team members. The coordinator will also ensure that only assigned team members are on scene with the involved officer(s) and that the officers remain separate from each other.

The EAP Coordinator shall be the only member of EAP that contacts other EAP members or the various involved officers at the scene. This is to ensure that the officer's needs are being met, determine if additional resources are needed and to resolve any conflicts or issues that arise, not to inquire about the content of any confidential communications.

The EAP Coordinator shall identify any spouses/significant others who will need contact and notify the TIC spouses for assignment.

USE OF FORCE REVIEW BOARD

1. Chair Assistant Chief Services
2. Voting Members Assistant Chiefs of Investigations, Services and Operations
Commanding Officer/RU Manager
Citizen Members
Peer Members
RU Manager (non-involved RU)
3. Advisory Members Deputy City Attorney
BHR Representative
Review Board Coordinator
Internal Affairs Captain
Training Captain
4. Other Participants Detective Division Investigators
Internal Affairs Investigators
Training Division SME's
Director, Independent Police Review
Observers:
Bargaining Unit Representative representative (s)
6. How the Use of Force Board Works
 - a. **All discussions are confidential.**
 - b. Detectives will present the facts of the case surrounding the initial incident; Internal Affairs will review the case as it relates to Bureau policies and Training Division will present a review and aof the Detective Division, Internal Affairs and Training Division present the case and their review of the presents investigationCommanding Officer/RU Manager presents the case; findings are not discussed until Executive Session.
 - c. SME's from Training and/or case investigators may provide additional information if needed.
 - d. Involved member may be present until Executive Session. The member speaks to the board about his/her actions. Voting and advisory board members may ask clarifying questions.
 - e. After the member has finished addressing the board and there are no further questions, the board goes into executive session. Everyone **except for** the voting board members, Deputy City Attorney, BHR Representative and the Review Board Coordinator are excused at this time.
 - f. Observers do not take an active role in the process.
7. Executive Session
 - a. Commanding Officer/RU Manager makes a finding (sustained/not sustained and/or in policy/out of policy) and a recommendation for the level of discipline, if appropriate.
 - b. Review Board Coordinator provides information regarding past discipline of involved member.
 - c. Board discusses discipline and makes a recommendation to be forwarded to the Chief.
8. Notification of Outcome
The Assistant Chief of Services will:
 - a. Advise the union and/or member whether or not the board reached a sustained and/or in policy out of policy finding.
 - b. Advise the union and/or member what the recommendation to the Chief will be.
 - c. Meet with the Chief to advise her of the board's recommendation.

Citizen Member and Peer Member Survey

This survey is designed to help the Portland Police Bureau evaluate the perspectives of citizen and peer members who sit on the Performance Review Board and Use of Force Review Board. Your assistance is greatly appreciated.

All responses are anonymous.

For each of the following questions, please circle the number that most closely corresponds with how you feel.

1. Do you feel willing and able to express your opinion in all steps of the review board process?

(5) (4) (3) (2) (1)
Yes, completely No, not at all

2. Do you feel free from concern that stating an opposing opinion may lead to any form of retaliation from a member of the panel or from the police bureau?

(5) (4) (3) (2) (1)
Yes, completely No, not at all

3. Are you free to ask questions and seek more information during the review board process?

(5) (4) (3) (2) (1)
Yes, completely No, not at all

4. Do you receive enough information to make informed decisions?

(5) (4) (3) (2) (1)
Yes, completely No, not at all

5. Do you feel free to vote according to your best judgment?

(5) (4) (3) (2) (1)
Yes, completely No, not at all

Please provide suggestions that you feel would help the quality and functioning of the board process:

Please indicate: _____ Peer Member _____ Citizen Member
Future survey choice: _____ Paper survey via mail _____ E-mail survey

TABLE OF CONTENTS

CASE # xxxxxxxxxxxx

SECTION A	INVESTIGATIVE SUMMARY MEMORANDUM
SECTION B	INVESTIGATIVE CASE REPORTS <ul style="list-style-type: none">• Investigative Report (s)• Connect Cases
SECTION C	SUBJECT / SUSPECT / VICTIM INFORMATION <ul style="list-style-type: none">• Photograph• PPDS• CCH, LEDS, NCIC• Additional Information (i.e. Family, History)
SECTION D	CRIME SCENE <ul style="list-style-type: none">• Crime Scene Diagram / Legend• Crime Scene Word Picture / Report• Crime Scene Log• Crime Scene Photographs
SECTION E	OFFICERS' REPORTS <ul style="list-style-type: none">• Supervisors' Reports• Responding / Assisting Officers' Reports• Additional Police Reports
SECTION F	DETECTIVES' REPORTS
SECTION G	FORENSIC EVIDENCE DIVISION REPORTS
SECTION H	PROPERTY EVIDENCE RECEIPTS
SECTION I	MEDICAL / AMBULANCE REPORTS
SECTION J	MEDICAL EXAMINER'S REPORTS <ul style="list-style-type: none">• Autopsy• Toxicology

SECTION K FORENSIC CRIME LABORATORY REPORTS

SECTION L INVOLVED OFFICERS

**** Officers are listed in the table of contents and they are separated by colored divider sections**

- **Photographs**
 - **Officer**
 - **Uniform**
 - **Weapon (s) and Ammunition**
- **Officer's Use of Force / Special Report**
- **Taped Transcript of Interview**
- **Sketch**
- **Interview Outline / Checklist**
- **Communication Restriction Order / Rescind Order**

SECTION M WITNESS OFFICERS

**** Witness Officers are listed in the table of contents and they are separated by colored divider sections**

- **Special Reports**
- **Taped Transcript of Interview**
- **Sketch**
- **Communication Restriction Order / Rescind Order**

SECTION N VEHICLE(S) INVOLVED

SECTION O CIVILIAN WITNESS TAPED STATEMENTS AND REPORTS

**** Witnesses are listed in the table of contents and they are separated by colored divider sections**

SECTION P COMPUTER ASSISTED DISPATCH (CAD) REPORTS

SECTION Q WARRANTS

SECTION R SUBPOENAS

SECTION S MEDIA REPORTS / PRESS RELEASE

SECTION T

PHOTOGRAPHS

SECTION U

MISCELLANEOUS

SECTION V

GRAND JURY REPORT

**MENTAL HEALTH -
SECURE RESIDENTIAL TREATMENT FACILITIES
PARTNERSHIP AGREEMENT**

FILE NO. 0927 **START DATE** 08-01-05 **SIGNED DATE** 10-12-05
REVIEW DATE

PROBLEM: Other

**OTHER RELATED
CRIMINAL ACTIVITY:**

**NAME, ADDRESS OR
LOCATION/AREA:**

NEIGHBORHOOD ASSOCIATION:

COMMUNITY OR CITY FACILITATOR: Portland Police Bureau; City of Portland;
Multnomah County; National Alliance of
Mentally Ill (NAMI); Project Respond; CIT
Advisory Members

GOAL: To establish written protocols among the Portland Police Bureau, the Bureau of
Emergency Communications and Multnomah County that would detail
responsibilities in the event that a police officer is called to restore order in a
locked psychiatric facility. The safety of patients, staff and officers is the driving
force of our work.

Partnership Agreement
on
Mental Health
Secure Residential Treatment Facilities

October/2005

Mental Health Partnership Agreement

Start Date: August, 2005

Problem: There is a lack of written protocols of what will be done when staff members at a SRTF, (Secure Residential Treatment Facility), call police. Uniformed officers should only be responding to a locked psychiatric facility under specific circumstances. Multnomah County Mental Health and the Portland Police Bureau should understand each other's roles better. The protocols should contain a step by step plan of what to do, and when to do it.

Goal: To establish written protocols among the Portland Police Bureau, the Bureau of Emergency Communications and Multnomah County that would detail responsibilities in the event that a police officer is called to restore order in a locked psychiatric facility. The safety of patients, staff and officers is the driving force of our work.

Partners

Portland Police Bureau:

Officer Paul Ware, CIT Coordinator
Assistant Chief Stan Grubbs, Operations Branch
Lt. Mark Kruger, East Precinct

City of Portland

Representative from Bureau of Emergency Communications

Multnomah County:

Sandy Haffey, Manager Safety Net Services
David Hidalgo, Program Manager, Call Center
Sandra Potter, MR/DD

National Alliance of Mentally Ill (NAMI)

Doris Minard-Cameron

Project Respond

Greg Borders

CIT Advisory Committee Members:

Greg Ruf

John Holmes
Sylvia Zingeser
Bill West

Portland Police Bureau's Responsibilities:

- Review Police reports to ensure that any problems that patrol officers have will be addressed in a timely manner.
- Receive from Multnomah County, and distribute to the precincts, floor plans for locked and unlocked psychiatric facilities in Portland.
- Review and have precinct personnel stop by these facilities to ask the on-duty staff about their emergency procedures for calling the police. Review police wants and needs with the staff, such as having staff members come outside to flag down responding units, and giving us a briefing.
- Review training that the facility provides to the staff members, and make recommendations as needed.
- Evaluate the necessity for action before entering any locked psychiatric facility.
- Obtain information on the location and status of other patients in the facility
- When responding to the facility in case of emergency, designate a leader, and gather up all necessary officers and equipment before going in.
- Work with the facility staff to ensure as safe an outcome for all involved parties as possible.

Multnomah County's Mental Health's responsibilities:

- Offer the SRTF's staff training on a quarterly or semi-annual basis on when to call the police for an emergency incident while in a locked psychiatric facility.
- Distribute floor plans for the locked and un-locked psychiatric facilities in Portland, to the Police Bureau.
- Do inspections or visits to the facilities to review compliance with the training.
- Re-train staff as needed (as part of the re-licensing protocols).
- Review the reports submitted by the SRTF's for compliance.

Secure Residential Treatment Facilities responsibilities:

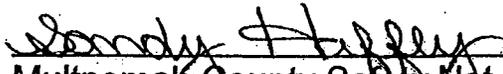
- Train staff on when to call the police for an emergency incident while in a locked psychiatric facility, using the Multnomah County's Call Center's protocol.
- Staff to provide critical incident reports to MC anytime police are dispatched.

CIT Advisory Committee members responsibilities:

- Respond to issues brought up by members and document actions by the members.

General Provisions

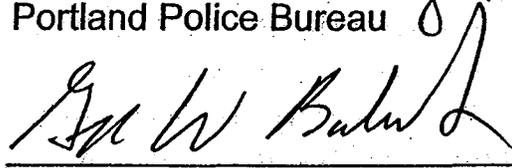
- Nothing in this Partnership Agreement shall be construed as obligating any of the Partners to the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.
- This Partnership Agreement is intended only to assist the partners understand their roles when there is a need to restore order in a locked psychiatric facility and is not intended to, nor does it, create any duties, rights or benefits, substantive or procedural, enforceable at law or equity by any partner or third party against any partner or partners, their agencies, or their officers.
- This Partnership Agreement shall become effective when signed by all parties, and shall remain in force until thirty (30) days after written notice of a desire to terminate by any partner.

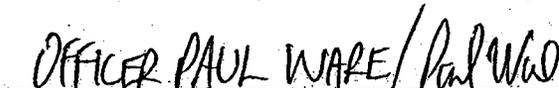

Multnomah County Safety Net Services

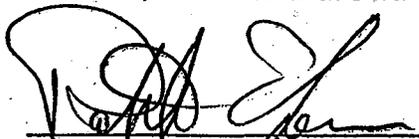

Multnomah County Call Center
Heeseung Kang

 10.12.05
Multnomah County MR/DD


Portland Police Bureau


Portland Police Bureau


OFFICER PAUL WARE / Paul Ware
Portland Police Bureau


Portland Police Bureau / BOEC


CIT Advisory Committee

Multnomah County Mental Health & Addiction Services
Protocol
Residential Facilities & Call Center

A. Residential Facility calls for assistance/consultation are directed to the Call Center

B. **Types of Calls**

- **Routine Calls** – Directed to Call Center and/or facility Administrator
FYI
Consultation related to on-going situation/event
Direction as to next best step
Resident AWOL
- **Urgent Calls – Directed to Call Center**
Consultation related to escalating situation/event
Project Respond request
Transport to hospital (except for PSRB)
- **Emergency Calls/911**
Fire
Significant medical situation
Crime in process
Armed individual on premises/property
Serious Assault – resident/staff physically attacking staff or other resident(s), AND it would require significant physical force to intervene, i.e. not shoving, punching, etc.

C. **Facility Responsibilities**

- Provide residential facility staff with list of administrators and telephone numbers by site
- Provide Police Department with floor plans for SRTF facilities

D. **If Police dispatched to a facility**

- Facility will designate a staff member to meet police outside facility upon their arrival, to provide information re: situation
- Facility will provide copy of facility floor plan to police upon arrival
- Facility Administrator/designee will be notified by facility staff, informing them that police have been dispatched to the site

E. **Direct Telephone Line for Police Department**

- Direct line is available 7 days a week/24 hours a day
- 503-988-4111