

Clearer policies needed for the use of weapon-mounted flashlights

August 2020

A complaint that an officer used the flashlight on his gun to look into and clear an unoccupied tent prompted this review. There have been several high-profile incidents in other states involving weapon-mounted flashlights and accidental discharges that resulted in deaths and injuries. We found that the Police Bureau needs more specific policies and training on the types of flashlights allowed and how they are to be used to clear spaces.

Weapon-mounted flashlights can pose a hazard

Officers in New York, New Jersey, Texas, and Colorado have all accidentally fired their guns when trying to turn on their weapon-mounted flashlights. Bystanders, suspects, property, and other officers have been shot and on occasion, killed, by these accidental discharges. The type of switch used to turn on the flashlight, called a pressure switch, is located on the front strap below the trigger guard of a handgun. These switches are close to the trigger, and the motion needed to activate them closely mimics pulling the trigger. The Denver Police Chief banned the use of pressure switches and implemented extra training after three incidents in two years with weapon-mounted flashlights.



Gun-mounted flashlights

Several manufacturers including SureFire and Insight Technologies make gun-mounted flashlights popular with police officers. An optional pressure switch for some models, located under the trigger guard, was a factor in several accidental shootings.

Source: *Denver Police Department*

PRESSURE SWITCH MOUNTED ON FRONT STRAP

Severiano Galván, *The Denver Post*

The Portland Police Bureau currently issues weapon-mounted flashlights that do not use this kind of pressure switch, though it is an available modification sold by the manufacturer. The Bureau's Directive on Weapons Administration (1020.00) shows there is no policy related to weapon-mounted flashlights, though, according to the Bureau's Training Division, it has been an option for officers since 2007. To ensure safe use of weapon-mounted flashlights, the Bureau should modify its directive to prohibit pressure switches and provide guidance on when the use of weapon-mounted flashlights is appropriate as opposed to an ordinary flashlight.

Using a weapon to search and clear certain spaces is unnecessary and dangerous

The incident that prompted this review pointed to insufficient direction for officers about searching and clearing tents belonging to people who live outside. The Bureau's training materials include tactics for clearing buildings and structures and are clearly geared towards preparing officers to search larger spaces. This incident showed how current training is too broad. When deciding whether to perform a building search, the training materials state it is appropriate "when you believe a suspect is hiding inside of a structure, or there is uncertainty about whether a suspect is inside and the owner/resident needs to know it is safe." The officer in this incident cleared the tent with his weapon-mounted flashlight despite the fact that there was no "suspect" present, and the tent was reported to be empty.

If a tent is considered a structure or building that should be cleared according to the corresponding training, the officer's actions run counter to it. If a tent is not considered a building or structure, the Bureau would benefit from establishing expectations around tent entry and searches. Using a weapon-mounted flashlight to search a tent, especially one that an officer did not need to enter, seems inherently dangerous to the officer. At best, officers unnecessarily use a weapon-mounted light to clear an area they reasonably know to be empty. At worst, an officer is pointing a weapon at a tent's occupant, creating a dangerous situation by introducing a lethal element that should have been avoided.

"If you put a flashlight on a gun, the gun becomes something other than a gun. A firearm should be a firearm. We were concerned in New York that if you put a flashlight on a gun, the police would start using the gun as a flashlight. When you do that, you point a loaded firearm in an area not intended for shooting."

- **Gene Maloney, former NYPD firearms instructor, *The Denver Post***

While Oregon currently has no case law regarding tent entry, a 2017 opinion by the Washington Court of Appeals (*Washington State v. Pippin*) limited the ability of law enforcement to enter temporary housing structures without a warrant. In addition to potential legal challenges that could arise from such tent searches, all of Portland's community members deserve a level of respect that grants them reasonable autonomy over their home and possessions. The Bureau should proactively establish protocols that acknowledge individuals' right to privacy in temporary structures.

Recommendations

We recommend the Portland Police Bureau:

1. Modify its Weapons Administration directive to include weapon-mounted flashlights, including a prohibition on pressure switches and guidance on when the use of them is appropriate as opposed to an ordinary flashlight.
2. Re-examine and update its training and guidance around clearing spaces and provide greater specificity on how different types of buildings, tents, and other structures should safely be cleared.

The City Auditor's Independent Police Review provides impartial oversight of police conduct, practices, and policies to increase accountability and public trust.



CITY OF PORTLAND, OREGON



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July 29, 2020

Mary Hull Caballero
City Auditor
1221 SW 4th Avenue, Room 140
Portland, OR 97204

Dear Auditor Hull Caballero:

Thank you for the opportunity to review and respond to the Independent Police Review Division's report regarding the Portland Police Bureau's weapon flashlight policy and training. An inadvertent deadly force incident, such as those described in your report, would be an overwhelming tragedy that would deeply impact our community.

As you will note from our review of the recommendations, we will provide additional guidance regarding our Directive 1020.00. We believe the second recommendation is already current practice by our Training Division, which continues to refine our training principles. Our goal is to continually develop the best trained police officers to safely and effectively meet the needs of our community.

We appreciate the ongoing collaborative effort to address training, policies and issues that affect public safety.

Sincerely,

A handwritten signature in blue ink, appearing to read "CL".

Charles Lovell III
Chief of Police

CL/tws

PPB Response to IPR Policy Review on Weapon-Mounted Flashlights

Recommendation 1

Modify its Weapons Administration Directive to include weapon-mounted flashlights, including a prohibition on pressure switches and guidance on when the use of them is appropriate as opposed to an ordinary flashlight.

Decline Policy Modification. Agree on additional guidance.

Directive 1020.00 states:

2.3.2.1 Only certified armorers and certified firearms instructors shall modify or perform repairs on Glocks carried on duty.

The language covers all modifications to the member's firearms, including weapon-mounted flashlights. This allows modifications to be standardized and administered by the Training Division. The Training Division does not authorize pressure switches for use on pistols. Additionally, member's weapons are inspected during semi-annual qualifications to ensure compliance with existing standards.

Providing guidance on use of the tool is not appropriate within Directive 1020.00. However, we will add additional training on the appropriate times to use pistol-mounted flashlights vs. conventional flashlights. This training will be provided during the next semi-annual qualification period.

Recommendation 2

Re-examine and update its training and guidance around clearing spaces and provide greater specificity on how different types of buildings, tents, and other structures should safely be cleared.

Agree. Current Practice. The Training Division believes in training to principles and not specific circumstances, to best prepare our members for the broad range of circumstances they encounter. Our lesson plans teach principles for clearing structures, and we define them in the broadest sense, ranging from sheds to large commercial structures. To provide clarity on whether or not the Police Bureau considers a tent a structure, the Training Division will modify its existing lesson plan to explicitly include "tent" as an example of a structure.

Additionally, the Training Division recently completed a review of its building clearing training. Training Division staff reviewed lesson plans from Phoenix, Las Vegas, Denver, Seattle, and Salt Lake City to ensure our curricula is consistent with other larger agencies. After completing our review, the Training Division believes our existing curricula provides sufficient guidance to allow our members to evaluate risk, based on the totality of the circumstances, and develop a working strategy to safely clear structures.