

EXHIBIT B

1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures

Refer:

- Graham v. Connor, 490 U.S. 386 (1989)
- ORS § 146.095, Investigation
- ORS § 161.015, General Definitions
- Directive 315.30, Satisfactory Performance
- Directive 330.00, Internal Affairs, Complaint Intake and Processing
- Directive 333.00, Criminal Investigations of Police Bureau Employees
- Directive 416.00, Post Officer Involved Deadly Force/Temporary Altered Duty
- Directive 630.45, Emergency Medical Custody Transports
- Directive 630.50, Emergency Medical Aid
- Directive 640.10, Crime Scene Procedures
- Directive 900.00, General Reporting Guidelines
- Directive 1010.00, Use of Force

Definitions:

- **Communication Restriction Order:** An order issued during an investigation that prohibits indirect or direct communications between the involved member(s) and witness member(s) regarding the facts of the case. This restriction will be given in writing and will be lifted in writing.
- **Constitutional Force Standard:** Under *Graham v. Connor* and subsequent cases, the federal courts have established that government use of force must comply with the “reasonableness” requirement of the Fourth Amendment. Under this standard, members must choose from the objectively reasonable force options at a scene. See the definition of “objectively reasonable” below.
- **Deadly Force, also known as Lethal Force:** Any use of force likely to cause death or serious physical injury, including the use of a firearm, carotid neck hold, or strike to the head, neck or throat with a hard object.
- **Garrity warnings:** An advisement of rights administered by the Professional Standards Division investigators to members who are the subject of an internal investigation. Under the United States Supreme Court case of *Garrity v. New Jersey*, the advisement notifies subjects of their criminal and administrative liability for any statements they may make and their right to remain silent on any issues that might implicate them in a crime.
- **In-Custody Death:** Occurs when a subject dies while under physical control of a member, dies as a direct result of police action, or dies while in police custody. Physical control includes the use of an electronic control weapon system.

- **Involved Member:** For the purposes of this directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, an involved member is a Bureau member who applies deadly force or directs another to use deadly physical force, or a member who has used physical force, or a member who assumes control care or custody of a subject who dies in police custody.
- **Negligent Discharge:** Any unintentional discharge of a firearm by a sworn member that is not due to equipment malfunction.
- **Objectively Reasonable:** The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, the uses of the terms reasonable and reasonably in this policy refer to objective reasonableness.
- **Police Action:** Any circumstances, on or off duty, in which a sworn member exercises or attempts to exercise police authority.
- **Serious Physical Injury:** As defined in ORS §161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of function of any bodily organ.
- **Witness Member:** For the purposes of this directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, a witness member is a Bureau 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. Additionally, a member who observes or has firsthand knowledge of the events surrounding a member's direction to another to use deadly force.

Policy:

1. This policy establishes the specific guidelines and reporting requirements for the reporting and investigation of incidents involving uses of deadly force, death as a result of member use of force, and in-custody deaths.
2. The Portland Police Bureau recognizes that a member's use of deadly force or the death of an individual while in police custody requires impartial and timely review. It is the policy of the Bureau that uses of deadly force, death as a result of member use of force, and in-custody deaths, whether on or off duty, be investigated with the utmost thoroughness, professionalism and impartiality so as to determine whether member actions comport with applicable law and Bureau policies and training.
3. The Bureau acknowledges that the investigations of these incidents are of critical importance to the involved member, the Bureau, and the community. The Bureau entrusts the Detective

Division with the responsibility to conduct the criminal investigation of the incident objectively and thoroughly. Concurrently, the Professional Standards Division (PSD) shall also conduct an administrative review of each such incident. The Detective Division may provide information and/or findings from the criminal investigation to PSD; however, all personnel involved in the administrative review shall keep information garnered from the PSD interview strictly confidential, not permitting disclosure of any such information or its fruits to the criminal investigation.

4. Bureau members will be afforded all rights guaranteed under the United States and State of Oregon Constitutions throughout the investigation.
5. To ensure public accountability, the Bureau is committed to establishing open communication and transparent practices with the public in an effort to cultivate and build community trust; however, information that could jeopardize the integrity of any investigation or any pending prosecution may be withheld from release until it is appropriate or a court of competent jurisdiction directs release.
6. The Bureau understands the impact that these traumatic incidents have on members and acknowledges the need to be sensitive when conducting the required investigation. The Bureau encourages its members to take proactive steps and contact available employee assistance resources following such an event if needed.
7. The Bureau also understands the impact that these traumatic incidents has on the families and communities of those persons upon whom deadly force is used and acknowledges the need to be sensitive when conducting the required investigation. All interviews and conversations with family or community members will be conducted in a manner that strives to be respectful while balancing the need to obtain critical information.

Procedure:

1. Duties and Responsibilities Following the Use of Deadly Force Causing Death (within Portland city limits).
 - 1.1. Involved Member(s)
 - 1.1.1. Responsibilities at the Scene:
 - 1.1.1.1. The involved member(s) shall notify an on-duty supervisor at the precinct of occurrence. The member(s) shall make the notification(s) as soon as practicable. The involved member(s) shall make it known to the on-scene supervisor that they are an involved member, as defined in this Directive.
 - 1.1.1.2. If the on-scene supervisor is unable to obtain from witness members, initial observations and/or other sources (e.g., radio transmissions, Computer Aided Dispatch [CAD], etc.) the necessary information to ensure the safety of the public, the involved member(s) may be required to provide a statement to the on-scene supervisor that is limited to information strictly necessary to immediately protect life and ensure public safety. The on-scene supervisor will be limited to asking the following three questions.

- a) Direction and approximate number of any shots fired by officers and suspects;
- b) Location of injured persons; and
- c) Description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons.

All three questions need not be asked if enough information necessary to protect life is obtained with the answers to only one or two of the questions, or from other sources.

- 1.1.1.3. After answering any of the three public safety questions outlined in 1.1.1.2., the involved member(s) may consult on scene with their union representative and attorney(s).
- 1.1.1.4. Homicide Detectives may ask the involved member(s) to give a voluntary detailed account of the incident and on-scene walk-through. The member(s) has the right to decline the request if they reasonably believe their use of force actions may be subject to criminal prosecution.
- 1.1.1.5. The involved member(s), unless injured, shall remain at the scene until released by the Detective Division Homicide Sergeant and PSD. The member(s) shall not be held at the scene any longer than necessary.

1.1.2. Responsibilities After the Event:

- 1.1.2.1. The Professional Standards Division (PSD) Captain or designee shall schedule a meeting with the involved member(s) as soon as practicable after the force event, which will be presumed to be within 48 hours of the event unless there is a compelling reason to delay the meeting.
 - 1.1.2.1.1. At the meeting, the PSD Captain or designee shall ask questions of the involved member(s) designed to collect a detailed accounting of all information necessary to complete an IA investigation. The involved member(s) may either voluntarily provide a statement or decline to voluntarily provide a statement.
 - 1.1.2.1.2. If the involved member(s) decline to volunteer a statement, the PSD Captain or designee shall compel such a statement after provision of *Garrity* warnings. At the conclusion of *Garrity* warnings, the involved member(s) shall answer all IA questions.

1.2. Witness Member(s):

- 1.2.1. Witness member(s) shall make it known to the on-scene supervisor that they are a witness to the incident, as defined in this Directive.
- 1.2.2. When requested, witness member(s) shall give an on-scene statement to the on-scene supervisor, providing the necessary information to protect life and ensure the safety of the public. They may also be asked to provide information to ensure that victims, suspects, and witnesses are identified, evidence is located, and provide any information that may be required for the safe resolution of the incident, or any other information as may be required.
- 1.2.3. Witness member(s) shall be subject to on-scene interviews to discuss the incident with detectives. They shall provide a full and candid account of the use of force event if asked.

- 1.2.4. All witness member(s), unless injured, shall remain at the scene until released by the Homicide Sergeant and PSD. Witnesses shall not be held at the scene any longer than necessary.
- 1.2.5. Witness member(s) shall be required to submit to an audio recorded interview if requested prior to going off shift. If injured, the witness member will be interviewed when medically stable.

1.3. On-Scene Supervisor:

- 1.3.1. After complying with scene security and first aid provisions as found within Directive 640.10, Crime Scene Procedures, the on-scene supervisor shall complete the following:
 - 1.3.1.1. Locate and 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 shall be posted to ensure that no communication regarding the incident takes place.
 - 1.3.1.2. Prior to CRO issuance by the Detective Division, admonish involved and witness members not to discuss the incident.
 - 1.3.1.3. The supervisor shall obtain information that is necessary to protect life and ensure the safety of the public (e.g., outstanding suspects, witnesses, etc.) from witness members and other sources.
 - 1.3.1.4. If the on-scene supervisor is unable to obtain from witness members, initial observations and/or other sources the necessary information to ensure the safety of the public, the arriving supervisor shall require the involved member(s) to answer the questions outlined in 1.1.1.2. in order to protect life if it appears that circumstances warrant an immediate statement.
 - 1.3.1.4.1. Supervisors should convey to the involved member(s) that the required information may be necessary to protect life or ensure the safety of the public.
 - 1.3.1.4.2. All questions seeking compelled information should be non-investigatory in nature and should be limited only to those needed to immediately protect life. For this reason, all three questions need not be asked if enough information necessary to protect life is obtained with the answers to only one or two of the questions.
 - 1.3.1.4.3. Supervisors shall document the involved member's response and must be able to provide an articulable reason for asking the questions.
 - 1.3.1.4.3.1. Supervisors shall provide the involved member's compelled answers to the any of the three questions to PSD in the form of a typed memorandum prior to going off shift.
 - 1.3.1.4.3.2. A supervisor compelling these answers from an involved member under these circumstances shall ensure that any information provided is not shared with criminal investigators.
 - 1.3.1.5. If ambulance transport is required, ensure that someone other than the involved or witness member(s) is assigned to accompany the injured member or community member to the hospital in the ambulance).
 - 1.3.1.6. Ensure that a single entry point into and out of the scene is established and advise the Bureau of Emergency Communications (BOEC) of its location.

- 1.3.1.7. Ensure that a Crime Scene Log is maintained at the entry point.
 - 1.3.1.8. Ensure that the following required notifications are made in order as listed (when feasible):
 - 1.3.1.8.1. Chain of Command,
 - 1.3.1.8.2. Detective Division Homicide Sergeant (up team),
 - 1.3.1.8.3. PSD,
 - 1.3.1.8.4. Auditor's Office of Independent Police Review (IPR),
 - 1.3.1.8.5. Public Information Officer (PIO),
 - 1.3.1.8.6. Employee Assistance Coordinator, and
 - 1.3.1.8.7. Appropriate bargaining unit representative.
 - 1.3.1.9. Ensure that involved and witness member weapons are retained in their holsters, pending weapon examination by responding detectives.
 - 1.3.1.10. Instruct involved and witness members to remain at the location until instructed otherwise by the lead detective or until they are released from the location by the Homicide Sergeant and PSD.
 - 1.3.1.11. Assign a member, other than an uninvolved or witness member, to drive each involved member to a location determined by the Homicide Sergeant, if required. Witness members may drive themselves. Whenever practical, each involved member and witness member should be transported in a separate vehicle.
 - 1.3.1.12. Upon the homicide detail sergeant and PSD-authorized release of the involved and witness members from the scene, supervisors shall:
 - 1.3.1.12.1. Instruct members facilitating transport for involved members to proceed to detectives or the designated area, as determined by the Homicide Sergeant.
 - 1.3.1.12.2. Direct involved and witness members to refrain from changing out of the clothes worn at the time of the incident until they receive specific permission to do so from the Homicide Sergeant
 - 1.3.1.12.3. Any exceptions to the preceding actions shall only be authorized by the Homicide Sergeant.
 - 1.3.1.12.4. Assign a member, other than an involved or witness member to transport each involved member, when required.
- 1.4. Precinct or Division Commander Responsibilities:
- 1.4.1. The precinct or division commander will notify the appropriate Assistant Chief, who will then notify the Chief of Police and the other Assistant Chiefs.
 - 1.4.2. The Assistant Chief of Services will notify:
 - 1.4.2.1. The City Attorney, and
 - 1.4.2.2. The Training Division.
- 1.5. Chief of Police:
- 1.5.1. The Chief of Police will make the appropriate notification to the Commissioner-in-Charge.
- 1.6. Homicide Sergeant Responsibilities:
- 1.6.1. Make the following required notifications:
 - 1.6.1.1. Detective Division Command,

- 1.6.1.2. On-call detectives,
 - 1.6.1.3. District Attorney's Office,
 - 1.6.1.4. Medical Examiner's Office, and
 - 1.6.1.5. Forensic Evidence Division (FED), ensuring criminalists are responding to the scene.
 - 1.6.2. Request assistance from the East County Major Crime Team.
 - 1.6.3. Respond to and assume responsibility for the scene after receiving a briefing from the supervisor in charge of the scene.
 - 1.6.4. Identify all involved and witness members and any members with pertinent investigative information.
 - 1.6.5. Make investigative and scene processing assignments.
 - 1.6.6. Regularly provide updates to the Detective Division Commander, the PIO, the PSD Captain, and the Chief of Police.
 - 1.6.7. Ensure CROs are issued pursuant to Section 8 of this directive.
 - 1.6.8. Ensure all involved weapons have been examined, documented, and retained if necessary; ensure member(s) are supplied with a replacement weapon by Training, if appropriate.
 - 1.6.9. Ensure a thorough and complete investigation is conducted.
 - 1.6.10. Ensure the appropriate checklists are used and case notebooks are prepared.
 - 1.6.11. After consultation with PSD and DA, release the involved and witness members from the scene.
 - 1.6.12. As soon as practicable, provide transcripts and/or recordings of all witness interviews to PSD.
- 1.7. Homicide Detective:
- 1.7.1. The Homicide Detective shall conduct a complete and thorough investigation of all in-custody deaths and deadly force incidents. PSD and the Training Division shall use the investigation to determine if the use of deadly physical force was justified, as well as to identify any training or policy concerns regarding the actions of the member(s). The Detective shall:
 - 1.7.1.1. Complete the General Offense Report;
 - 1.7.1.2. Ensure that scene sketches and diagrams are completed;
 - 1.7.1.3. Manage the processing of evidence;
 - 1.7.1.4. Conduct complete and thorough interviews of witness members and supervisors to ensure that all applicable areas are covered. All interviews wherein material facts of the case are discussed shall be audio recorded in their entirety;
 - 1.7.1.5. Direct the assigned criminalists-to collect all evidence including involved members' uniforms 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.
 - 1.7.1.6. Conduct interviews of civilian witnesses. Any interview shall be audio recorded in its entirety, unless the witness declines. The refusal shall be documented in writing;

- 1.7.1.7. Collect and submit all firearms involved in the incident, including Special Emergency Reaction Team (SERT) weapons, to the Oregon State Crime Lab for appropriate testing, and document the condition of the firearm(s) (as found), to include serial number, rounds in chamber and number of rounds in each magazine;
- 1.7.1.8. Collect and submit any other weapons (e.g., conducted electrical weapon [CEW]) used (or attempted to be used) in the application of force to the Property Evidence Division (PED);
- 1.7.1.9. Request a voluntary statement and on-scene walk-through from the involved member.
 - 1.7.1.9.1. The involved member shall be allowed to discuss this request with an on-scene attorney or union representative.
 - 1.7.1.9.2. If the member agrees, the detective shall conduct complete and thorough interviews of involved members to ensure that all applicable information is obtained. The detective shall ensure that all information that would otherwise be necessary to thoroughly complete a use of force report is captured over the course of the voluntary interview and walk-through. Detectives shall include a full and candid account of the pertinent information from the use of force report form in their written report.
 - 1.7.1.9.2.1. All interviews wherein material facts of the case are discussed shall be audio recorded in their entirety.
 - 1.7.1.9.3. If the involved member declines to provide a voluntary statement and on-scene walk-through based on a good faith belief that they may be subject to criminal prosecution, the Detective will not compel a statement or walkthrough absent express direction from the District Attorney's Office to do so. Any such direction by the District Attorney's Office shall be documented.
- 1.7.2. If the member agrees to provide a voluntary on-scene walk-through and interview to the on-scene homicide detective, pursuant to Directive 1010.00, Use of Force.
 - 1.7.2.1.1.
 - 1.7.2.2. Conduct an investigative follow up;
 - 1.7.2.3. Ensure that reports include detailed information related to any weapons involved, accounting for all shots fired, their point of impact, if ascertainable, and any injury or damage to property;
 - 1.7.2.4. Complete a Summary Report and case notebooks to include all transcripts of all recorded statements;
 - 1.7.2.5. Submit all cases involving the use of deadly force resulting in death and in-custody deaths to the DA for review;
 - 1.7.2.6. Coordinate and consult with the District Attorney's Office throughout the investigation; and
 - 1.7.2.7. Complete the investigative case book.
 - 1.7.2.8. Refer to Section 2.9. of this directive for information regarding reporting responsibilities. Exceptions to witness members providing on-scene

statements 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, and the detective must justify any such exceptions. Those exceptions must be approved by the Detective Division Commander.

1.8. Professional Standards Division (PSD):

1.8.1. Responsibilities at the Scene:

- 1.8.1.1. The PSD Captain, or designee, shall coordinate with the Homicide Sergeant to authorize the release of involved and witness members from the scene.
- 1.8.1.2. The PSD Captain shall inquire with the involved member whether they elect to give an immediate voluntary statement, briefly postpone providing a voluntary statement, or provide only a compelled statement.
- 1.8.1.3. If the involved member elects to provide an voluntary statement to PSD on-scene, the PSD Captain or designee will take such statement and document it in a report.

1.8.2. Responsibilities After the Event:

- 1.8.2.1. If the involved member did not provide an on-scene voluntary statement or additional statements are needed, the PSD Captain or designee shall schedule a meeting with the involved member as soon as practicable after the use of force event, which will be presumed to be within 48 hours of the event unless there is a compelling reason to delay the meeting. At the meeting, the involved member(s) may either voluntarily provide statements or decline to voluntarily provide statements.
 - 1.8.2.1.1. If the involved member(s) decline to volunteer statements, the PSD Captain or designee shall compel such statements after provision of *Garrity* warnings. At the conclusion of *Garrity* warnings, the involved member(s) shall answer all IA questions.
 - 1.8.2.1.2. An involved member's refusal to provide a voluntary statement to either Homicide Detectives or PSD shall not alone be grounds for any disciplinary action based on failure to follow directives. An involved member's refusal to provide information after being compelled to do so upon the administration of *Garrity* warnings may be grounds for a disciplinary action based on failure to follow directives. The PSD Captain will consider all refusals to provide compelled information on a case-by-case basis and make the appropriate determination based on all factors as to whether the involved member's refusal warrants disciplinary action.
- 1.8.3. The PSD Captain shall ensure that any statements compelled from an involved member after the provision of *Garrity* warnings, any evidence derived from those statements, and any information whatsoever gathered as part of the PSD investigation of those statements are kept wholly confidential within PSD and not provided to any person involved in or in any way connected with the criminal

investigation or prosecution, or to any source whatsoever outside of PSD, until the conclusion of any and all criminal proceedings against the involved member(s).

1.8.3.1. No member of PSD may disclose any compelled statements taken pursuant to this Directive, any evidence derived from those statements, and any information whatsoever gathered as part of the PSD investigation of those statements to anyone outside of PSD until the conclusion of any and all criminal proceedings against the involved member(s), and then only with approval of the PSD Captain.

1.8.4. The PSD Investigator shall refer to Section 5 of this Directive for review responsibilities and Section 1.9. of this directive for information regarding reporting responsibilities.

1.9. Use of Deadly Force (Resulting in Death) Reporting Requirements:

1.9.1. For use of deadly force resulting in death, the more comprehensive administrative review conducted by PSD is intended to capture all information required in a use of force report. Therefore, in those cases, involved members are not required to complete a use of force report prior to the end of shift as would be otherwise required in a force event.

1.9.2. While a criminal investigation and/or prosecution is pending, the PSD investigator shall ensure that all information that would otherwise be necessary to thoroughly complete a use of force report is captured over the course of the administrative review interview. The investigator need not complete the narrative report form itself, but shall instead include a full and candid account of all pertinent information from the form in their own written report, in lieu of the involved member completing the use of force report.

1.9.3. The PSD Captain shall ensure that any information or reports related to this review are kept wholly confidential within PSD and not provided to any person involved in or in any way connected with the criminal investigation or prosecution, or to any source whatsoever outside of PSD, until the conclusion of any and all criminal proceedings against the involved member(s).

1.9.3.1. No member of PSD may disclose any information or report from this review to anyone outside of PSD until the conclusion of any and all criminal proceedings against the involved member(s), and then only with approval of the PSD Captain.

1.9.4. For Category I force incidents where the Detective Division completes a criminal investigation and PSD completes an administrative review, the completion of a force After Action report is not required because the administrative review serves this function.

1.9.5. All witness members shall complete a use of force report, as outlined in Directive 1010.00, Use of Force.

2. Duties and Responsibilities Following the Use of Deadly Force and in-custody deaths (outside of Portland city limits).

2.1. Involved Member Responsibilities:

2.1.1. Notify the jurisdiction of occurrence, and

- 2.1.2. Notify an on duty patrol supervisor if the involved member's supervisor is not present.
 - 2.1.3. Members shall also follow the requirements listed in Section 1.1. of this directive.
- 2.2. Supervisor Responsibilities:
- 2.2.1. Supervisors will make notification as required of the on-scene supervisor. Refer to Section 1.3.1.8. of this directive.
- 2.3. Detective Division Commander, or designee:
- 2.3.1. Shall contact the investigating agency to provide an offer of assistance.
- 2.4. Professional Standards Division:
- 2.4.1. The PSD Captain, or a designee, shall:
 - 2.4.1.1. Act as the Bureau's liaison;
 - 2.4.1.2. Respond to the scene, if feasible;
 - 2.4.1.3. Accompany the IPR Director, or designee, at the scene and assist in gathering information from Detectives, when applicable (i.e., when IPR elects to respond to the scene);
 - 2.4.1.4. After consulting with the county of incident's DA, may compel statements from witness members at any time;
 - 2.4.1.5. Coordinate with the Homicide Sergeant to authorize the release of involved and witness members from the scene; and
 - 2.4.1.6. Refer to Section 5 of this Directive for review responsibilities and Section 1.9 of this directive for information regarding reporting responsibilities.
3. Deadly Force/In-Custody Death by an On-Duty Member from Another Jurisdiction (within Portland city limits).
- 3.1. Bureau Procedures:
- 3.1.1. The agency in charge of investigating deaths in Multnomah County is the DA. If the Bureau investigates, the Homicide Sergeant shall be the supervisor and detectives shall be responsible for the investigation, and shall follow the procedures in Section 2.7.
- 3.2. The Bureau's On-Scene Supervisor shall:
- 3.2.1. Comply with scene security and first aid provisions as found within Directive 640.10, Crime Scene Procedures;
 - 3.2.2. Ensure that an on-duty supervisor of the member's agency is notified;
 - 3.2.3. Locate and separate all involved and witness members. If the number of individuals to be physically separated is so great to be impractical, a supervisor or detective shall be posted to ensure that no communication regarding the incident takes place;
 - 3.2.4. Prior to CRO issuance, admonish involved and witness members not to discuss the incident; and
 - 3.2.5. Obtain information that is necessary to protect life and ensure the safety of the public (e.g., outstanding suspects, witnesses, etc.) from witness members and other sources.

- 3.3. Witness members who are members of the Bureau shall follow the procedures set forth in Section 1.2. of this directive.
 - 3.4. Unless there is some immediate need to seize weapons, the involved peace officer shall be allowed to keep their weapon(s) until their agency supervisor arrives. Upon arrival, the agency supervisor shall take custody of the firearm, and if necessary, surrender it to the investigator.
 - 3.5. The Homicide Sergeant shall notify the appropriate Bureau Precinct Commander and Assistant Chief.
4. Duties and Responsibilities Following the Use of Deadly Force Not Causing Death.
 - 4.1. Involved Member(s):
 - 4.1.1. Shall follow the procedures set forth in Section 1.1. of this directive.
 - 4.2. Witness Member(s):
 - 4.2.1. Shall follow the procedures set forth in Section 1.2. of this directive.
 - 4.3. On-Scene Supervisor:
 - 4.3.1. Shall follow the procedures set forth in Section 1.3. of this directive.
 - 4.4. Detective Division:
 - 4.4.1. The Detective Division shall conduct a complete and thorough investigation of the deadly force incident. The investigation shall be used to determine justification for the use of deadly physical force, as well as to identify any training or policy concerns regarding the actions of the member(s). The Detective shall:
 - 4.4.1.1. Ensure CROs are issued pursuant to Section 8 of this directive.
 - 4.4.1.2. Complete a General Offense Report;
 - 4.4.1.3. Ensure that scene sketches and diagrams are completed;
 - 4.4.1.4. Manage the processing of evidence;
 - 4.4.1.5. Conduct interviews of involved members, witness members and supervisors using the interview checklist to ensure that all applicable areas are covered. All interviews wherein material facts of the case are discussed shall be audio recorded;
 - 4.4.1.6. Conduct interviews of civilian witnesses. The interview shall be audio recorded in its entirety, unless the witness declines. The refusal shall be documented in writing;
 - 4.4.1.7. Collect and submit all firearms involved in the incident, including SERT weapons, used in the incident to the Oregon State Crime Lab for appropriate testing, and document the condition of the firearm(s) (as found), to include serial number, rounds in chamber and number of rounds in each magazine;
 - 4.4.1.8. Collect and submit any other weapons (e.g., CEW) used (or attempted to be used) to PED;
 - 4.4.1.9. Ensure that their reports include detailed information related to any weapons involved, accounting for all shots fired, their point of impact, if ascertainable, and any injury or damage to property;

- 4.4.1.10. Complete a Summary Report and case notebooks to include all transcripts of all recorded statements;
 - 4.4.1.11. Submit all cases involving intentional use of deadly force and negligent discharge resulting in injury to another, to the DA for review; and
 - 4.4.1.12. Complete the investigative case book.
- 4.5. Professional Standards Division:
- 4.5.1. PSD shall conduct a concurrent administrative review of the incident in accordance with Bureau policy, including the steps identified in Section 5.
 - 4.5.2. PSD shall schedule a compelled interview, if no on-scene voluntary statements or insufficient statements were provided by the involved member, with the involved member as soon as practicable after the force event, which will be presumed to be within 48 hours of the event unless there is a compelling reason to delay the meeting.
 - 4.5.3. PSD shall conduct an interview with the involved member(s)
 - 4.5.4. The PSD Investigator shall refer to Section 1.9. of this directive for information regarding reporting responsibilities.
- 4.6. Use of Deadly Force (Not Resulting in Death) Reporting.
- 4.6.1. After consultation with the DA regarding potential for prosecution, the PSD Captain shall have the discretion to direct the involved member to complete a use of force report.
 - 4.6.1.1. Pursuant to Directive 1010.00, Use of Force, members shall complete the use of force report immediately after being instructed to do so.
 - 4.6.2. For Category I force incidents not resulting in death where the Detective Division completes a criminal investigation and PSD completes an administrative review, the completion of a force After Action report is not necessary.
 - 4.6.3. All members shall follow Directive 1010.00, Use of Force, and Directive 900.00, General Reporting Guidelines, regarding report-writing.
 - 4.6.4. Members shall adhere to all reporting and review requirements set forth in Directive 1010.00, Use of Force, for force resulting in hospital admission or force involving more than one simultaneous intentional CEW application.
 - 4.6.5. The involved member's supervisor shall complete the use of force After Action report for all force resulting in hospital admission and/or force involving more than one simultaneous intentional CEW application.
5. PSD Review.
- 5.1. PSD shall conduct administrative reviews concurrently with criminal investigations, if any, concerning the same incident.
 - 5.2. PSD shall interview all witnesses to the use of force, and may compel statements from witness members at any time.
 - 5.3. PSD shall conduct a compelled interview with the involved member where appropriate in the administrative review.

- 5.3.1. For deadly force incidents that result in death, PSD shall schedule a compelled interview with the involved member as soon as practicable after the force event, which will be presumed to be within 48 hours of the event unless there is a compelling reason to delay the meeting.
 - 5.3.2. For deadly force incidents that do not result in death, PSD shall schedule a compelled interview with the involved member after consulting with the DA regarding the potential for prosecution.
- 5.4. PSD shall consider all available relevant evidence, including recordings by Homicide Detectives or others of witness and involved member interviews; physical evidence; and documentary evidence.
- 5.5. In accordance with PSD SOP #7, PSD shall conduct an administrative review of the incident, to include the events preceding the use of deadly force, the decision making surrounding the use of deadly force, the management/supervision of the incident, and the events following the use of deadly force to determine whether member actions were consistent with policy and if there are possible policy deficiencies.
- 5.6. PSD shall provide its investigation materials to the appropriate RU manager at the conclusion of all criminal proceedings against the involved member.
- 5.7. The lead PSD investigator shall present the results of the administrative review of the deadly force incident to the Police Review Board, as appropriate, at the conclusion of all criminal proceedings against the involved member.
- 5.8. The PSD Captain shall ensure that any materials and information whatsoever related to the IA investigation or collected by PSD members for the review are kept wholly confidential within PSD and not provided to any person involved in or in any way connected with the criminal investigation or prosecution, or to any source whatsoever outside of PSD, until the conclusion of any and all criminal proceedings against the involved member(s).
 - 5.8.1.1. No member of PSD may disclose any materials or information related to the IA investigation or collected by PSD members for the review to anyone outside of PSD until the conclusion of any and all criminal proceedings against the involved member(s), and then only with approval of the PSD Captain.
- 5.9. The PSD investigator shall refer to Section 1.9. of this directive for information regarding reporting responsibilities.
- 5.10. RU Manager Responsibilities:
 - 5.10.1. The RU manager shall utilize PSD's investigation materials to draft a findings memorandum to determine whether member actions were within policy. These findings shall be presented to the Police Review Board.

6. Training Review.
 - 6.1. Training Division Responsibilities:
 - 6.1.1. Upon completion of the criminal investigation and administrative review, the Training Division shall conduct a review of the incident and an analysis of the investigative findings to determine whether member actions were consistent with training and/or those actions reflect training deficiencies.
 - 6.1.2. The Training Division shall then provide its review to the involved member's RU manager.
 - 6.2. RU Manager Responsibilities:
 - 6.2.1. The RU manager shall discuss the Training Division's review with the involved member.
7. Communication Restriction Order (CRO).
 - 7.1. The Detective Division Commander, or their designee, shall issue CROs to all witness and involved officers immediately following the incident. The CRO process shall include:
 - 7.1.1. Issuing CROs to all witness and involved members;
 - 7.1.2. Providing copies of the CROs to a Detective Homicide Detail supervisor;
 - 7.1.3. Providing copies of the CROs to the PSD Captain; and
 - 7.1.4. Documenting that the CROs were issued and to whom.
 - 7.2. The CRO shall prohibit direct or indirect communications between any and all involved and witness officers regarding the facts of the event.
 - 7.3. Members under a CRO may communicate with any of the following regarding the case:
 - 7.3.1. Representatives from PSD,
 - 7.3.2. Representatives from the Independent Police Review Division (IPR),
 - 7.3.3. Representatives from the City Attorney's Office,
 - 7.3.4. Union representative,
 - 7.3.5. Attorney,
 - 7.3.6. Spouse,
 - 7.3.7. Clergy person,
 - 7.3.8. Doctor,
 - 7.3.9. Psychotherapist, and/or
 - 7.3.10. Any other person recognized by a court with jurisdiction in the State of Oregon as having a protected relationship entitling them to privileged communications.
 - 7.4. Union representatives shall not communicate to either involved members or witness members what has been told to them by any individual they are representing.
 - 7.5. The CRO shall continue, unless extended further, until the conclusion of the Grand Jury or, if no Grand Jury is convened, until a disposition is determined by the DA; and until the conclusion of the administrative review. The CRO shall remain in effect until revoked in writing by the PSD Captain.

- 7.6. On a case-by case-basis, the Chief of Police, or designee, may extend a CRO issued in a criminal investigation or an administrative review, for reasons including, but not limited to the case being under review by another federal, state, or local law enforcement agency.
 - 7.7. 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, unless authorized to do so, and until the involved or witness member is no longer under a CRO.
 - 7.8. Members may speak with Traumatic Incident Committee members. Members should avoid directly discussing factual aspects of the incident with Traumatic Incident Committee members. Traumatic Incident Committee members are directed to steer the conversation away from the facts and focus instead on the emotional issues confronting the member(s).
8. Release of Information.
 - 8.1. The Bureau shall provide timely and appropriate 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 general rule, the Bureau shall release, as soon as possible, accurate information which shall not compromise an ongoing investigation or the potential prosecution of a suspect(s). Absent a specific and lawful request, the Bureau shall not release the prior criminal history or prior law enforcement booking photo of the individuals involved in a member's use of deadly force or in-custody death.
 - 8.2. The PIO, who reports directly to the Chief of Police, shall be called out to all use of deadly force incidents. As soon as possible, the PIO shall coordinate with the Detective Division Sergeant in charge of the investigation, the DA's on-scene representative, and a union representative of the involved member(s) to determine what information shall be released.
 - 8.3. 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.
 - 8.4. The Bureau also has a responsibility to ensure that community members; in particular the families of community members directly affected by the use of deadly force, along with members of the Bureau, receive timely information.
 - 8.5. The Chief of Police will convene a briefing the next business day after the incident.
 - 8.6. To provide timely and accurate information, the Detective Division should 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. CRT shall not

release information that has not been approved for release by the Homicide Sergeant in charge of the investigation and the DA. Internal communication shall be coordinated through the Chief of Police.

- 8.7. As soon as possible, the PIO shall release to the public the available information. Typically, the information shall include:
 - 8.7.1. Nature of the call,
 - 8.7.2. Time of the call and member arrival,
 - 8.7.3. Number of members directly involved in the use of deadly force,
 - 8.7.4. Years of service of members directly involved in the use of deadly force,
 - 8.7.5. General information about the community member(s) involved in the deadly force encounter; and
 - 8.7.6. Other information as determined by the Detective Division and the DA.
- 8.8. The identity of Bureau member(s) involved in the incident shall be released within twenty-four hours, absent a credible security threat. 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.
- 8.9. All public records requests for any material relating to investigations shall be routed to the Records Division for standard public records request routing.
- 8.10. Because the Bureau has an interest in continuing to provide the community with information in the days that follow the use of deadly force, the Detective Division will continue to coordinate the release of other relevant information with the PIO.