



Health & Human Services and Public Safety Committee

Tuesday, June 9, 2020, 5:30 PM
Remote Meeting

Councilor Belinda Ray, District 1, Chair
Councilor Tae Chong, District 3
Councilor Pious Ali, At-Large

1. Announcements

- a. At tonight's meeting we will be reviewing Portland Police Department practices and policies. The PPD is preparing a full report for the Council regarding the protest on June 1, 2020, the events that took place, and the police handling of the situation. That report and a Council discussion of the item will take place later this month, tentatively scheduled for a workshop on June 22, 2020. Please visit www.portlandmaine.gov/agendas for updates and to sign up to be notified when Council meetings and workshops are scheduled. The City will also issue a press release with the date and time, post the information to its social media channels, and include the information in its weekly newsletter. To sign up to receive the newsletter, visit www.portlandmaine.gov/stayconnected and select the 'City News' group.

b. Zoom Information:

You are invited to a Zoom webinar.

When: Jun 9, 2020 05:30 PM Eastern Time (US and Canada)

Topic: Remote HHS and Public Safety Meeting

Please click the link below to join the webinar:

<https://zoom.us/j/97699198397>

Or iPhone one-tap :

US: +13126266799,,97699198397# or +19292056099,,97699198397#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799 or
+1 669 900 6833 or +1 253 215 8782

Webinar ID: 976 9919 8397

International numbers available: <https://zoom.us/j/97699198397>

2. Review and Approval of Minutes from May 12, 2020
 - a. May 12, 2020 Draft Meeting Minutes
3. Portland Police Department Update
 - a. Review of current PPD policies and trainings including:
 - › Use of Force, Chokeholds/Strangleholds
 - › Body Cameras
 - › Crisis-intervention and de-escalation
 - › Implicit Bias
 - › Citizen Police Review Board
 - › Discussion of policy recommendations from President Obama's Task Force for 21st Century Policing and how they mesh with current PPD policies and practices
 - › Assessment of where the PPD is with Campaign Zero's "8 Can't Wait" platform
(<https://8cantwait.org/>)
4. Next Meeting: July 14, 2020

NOTE: Since there are no action items on the agenda, there will be no opportunity for public comment at this meeting. Please feel free to send comments to members of the committee on any issue at any time via email. Councilors email addresses are available on the city website: www.portlandmaine.gov

The meeting can be watched online via livestream: www.portlandmaine.gov/livestream

Keep up to date with the new shelter design and planning process at the City's website

www.portlandmaine.gov/shelterplanning



Health & Human Services and Public Safety Committee Minutes

Tuesday, May 12, 2020, 5:30pm, Remote Meeting

Committee Attendance:

Belinda Ray, Chair (District 1), Tae Chong (District 3), Pious Ali (At-Large)

Councilors in Attendance:

City Staff:

Kristen Dow, Director of Health and Human Services; Adam Harr, Executive Assistant for Social Services; Keith Gautreau, Frank Chief; Chief Clark, Police Chief; Caity Hager, Emergency Management Coordinator. Bridget Rauscher, Chronic Disease Prevention Program Manager.

Meeting called to order at 5:35 PM.

AGENDA ITEM 1 – Announcements

- None

AGENDA ITEM 2 – Approval of Minutes

- Councilor Chong moved to approve the minutes, Councilor Ali seconded and the minutes were approved unanimously.

AGENDA ITEM 3 – COVID-19 Update

Caity Hager, Emergency Management Coordinator

- Cases in Country: 1,359,319 with Hotspots near us in Massachusetts and New York.
- States across the country who have stay-at-home orders are experiencing protests.
- States that have started to open are seeing crowds in parks and fear new infections.
- Rural concerns: prisons and nursing homes account for many infections.
- New: distribution of Remdesivir to treat severe cases of COVID-19 in hospital.
 - o Maine received 10 cases which is enough for 50 patients.
 - o 1,477 cases in Maine
 - o 913 recoveries
 - o 202 cumulative hospitalizations
 - o 65 deaths
 - o 34 people are hospitalized currently; 17 in critical care with 8 on ventilators.
 - o 20-30 cases seen a day.

- Stats per 100,000 residents in other states compared to Maine's 110 cases per 100,000 residents:
 - o MA: 78,462 cases, per 100,000 is 1,138
 - o NH: 3,160 cases, per 100,000 is 232.
 - Twice the rate of Maine.
 - o RI 11,614 cases with 1,096 per 100,000.
- Outbreak at Tyson Foods found 51 positive cases after universal testing.
- State lab testing capacity tripled through a partnership with Idexx.
- Contract tracers are being trained to increase capacity for when needed.
- Maine CDC will continue to concentrate on universal testing at long term care facilities and congregate care facilities (group homes and homeless shelters)
- Sentinel Testing: controlled randomized testing at healthcare facilities to get a handle on prevalence of disease.

Committee Questions and discussion.

- Chair Ray thanked Caity for the per 100,000 data to outbreaks in other states in perspective.
- Chair Ray asked about Remdesivir.
 - o It is used for the most critically ill in hospital.

Chief Gautreau, Fire Department Update

- The situation is stable at the hospital.
 - o Expected to remain this way for the near future.
 - o Planned for a spike, and are prepared for one.
- 1/3 EMS calls are U21 positive (U21 means COVID confirmed)
- Able to test more, with that to increase with the Idexx partnership.
- Preparing for the City to start opening and are expecting an increase in call volume.
- Vermont is the only state experiencing fewer positive cases.
- Suspects more positive cases in the City.
 - o Tyson Foods positive case
- Computer Aided Dispatch (CAD)
 - o Giving more information on 911 calls help responders prepare (wearing PPE).

Committee Questions and Discussion.

- Councilor Chong asked if the CAD information is shared with the Police Department.
 - o Yes; it is one dispatch system that both Fire and PD can see on Mobile Data Bases (MDB)
- Councilor Chong asked if there is a map that is shared showing where there are positive cases.
 - o Yes, shared between the CDC.
 - o Chief Gautreau wished more information would be shared by the State.
- Councilor Chong asked if there are enough PPE and what people can do to support firefighters.
 - o N95 are still a concern at 25% of what is requested.
 - o Burn Rate (what is used per week) 220 N95 masks per week.
 - Increasing slightly due to more COVID positive cases.
 - o Other entities around the State are also receiving 25% of what they asked for.

- Chair Ray asked if Fire still only has 1/3 of the PPE they need.
 - o Yes; masks are still at 1/4 of what is requested.

Chief Clark, Police Department Update.

- 2nd Covid Positive Officer has recovered and returned to work.
- Slight increase in calls.
- Officers are assigned to the Expo and Sullivan Gym.
- Using the arrest wagon to minimize contact.
- Issuing summons instead of arrests when appropriate.
- Decon one is decontaminating vehicles,
- The Academy Cadets.
 - o 7 officers ready next week.
 - o Will need Field training to be fully certified?
- 240 Masks used last week.
 - o Medical Calls sent involve Fire.
 - o More People are wearing masks; wearing a mask is how to help the PD.
- June 1st is still the target date.
- Business Related calls are sent to permitting and inspections.
- Individual related calls are sent to community policing.
 - o People become voluntarily compliant when educated.
- Summer
 - o Looking to train summer downtown cadets.
 - o Training permitting and inspections.

Committee Questions and Discussion.

- Councilor Chong asked if states that are opening have seen increases in certain types of crime and if there are any noticeable trends locally.
 - o Locally traffic offenses have increased due to a perception that there won't be enforcement.
 - o Crime was down locally in march about 34%
 - Looking for an increase in DV and incidents involving children calls but there were none.
 - Concern that there are not as much access to mandatory reporters with schools closed.
 - o No noticeable upticks in types of crime locally or nationally.
- Councilor Chong asked about a correlation between an increase in opioid use and an increase in crime and if that was seen here.
 - o Chief Clark said they are tracking overdose data in a new using an OD map that is shared with public health.
 - This is not compared to crime.
 - o January – April
 - Compared to crime rates at the same time last year, there is a slight decrease.
- Councilor Ali thanked the Chief and did not have questions.
- Chair Ray asked about the situation in Bayside.
 - o There has been an uptick in calls relative to the small gap seen in March.

- Bail conditions were placed on Chronic offenses (crime or quality of life)
 - Able to put bail conditions that would not allow someone back in a particular area.
 - May place no cruising signs in the area to help enforcement.

Director Kristen Dow, HHS Department Update

- Public Health.
 - Education on face coverings.
 - Providing technical assistance on public health related questions around the reopening plan.
 - Seeing more people at the clinic.
 - Additional Tuesday and Thursday STI clinic appointments
 - Wednesday appointments for the free clinic
 - Seeing new patients.
 - The disease investigator was focused on COVID-19 and will come back to the clinic.
- Barron Center.
 - People screened at entry
 - Staff and residents are wearing masks and face coverings.
 - Weekly communication to families and residents (a requirement of the state for all long-term care facilities.)
 - Visits for families through sliding glass doors and scheduling skype calls.
- Office of Elder Affairs.
 - 20 people had signed up for the meal program and it is up to 45 people now
- Social Services
 - 147 Hotel placements (86 two weeks ago)
 - Short term and will end once the Oxford Street Shelter opens to the public again.
 - Denial rate is 4.98% so far in may due to new applicants.
 - Have been issuing 60-day assistance to limit contact.
 - Operating seven days a week at the General Assistance office
 - 100 people per night are staying between the Expo and OSS.
 - 2nd round of Universal Testing at OSS and Expo:
 - 4 positive results out of the 94 people tested.
 - 4% positive rate; national rate for shelters is 33%.

Committee Questions and Discussion

- Councilor Chong asked if people receiving GA are being given masks. He fears people are reusing dirty masks.
 - It has been discussed.
 - Shelter guests are given masks.
 - GA clients are given a mask if they present without one.
 - Donations for clients would be helpful.
- Chair Ray asked if the 45 people in the meal program are volunteers or receiving meals.
 - 45 people are matched with a volunteer and receiving meals.
 - There is a link on the city site to get involved.
- Chair Ray asked about the State-funded shelter in Sullivan Gym.

- o They are consistently at 50.
- o USM will need the gym back and are planning on ramping down some time between June first and June 15th.
- o Its closure will be a challenge and there is a search for an alternative site for Preble Street and the State to resume sheltering while social distancing.
- o Councilor Ali referenced an email from the public recommending the Boys and Girls Club or the Portland Public High School.
- Chief Gautreau said that to have so few first responders and frontline staff infected for a city our size is remarkable; the plan and support from the City is amazing.

AGENDA ITEM 4 – Review of Maine's 2019 Drug Death Report

<https://portlandme.civicclerk.com/Web/GenFile.aspx?ad=5359>

- Statewide: 2019 rise over 2018:
 - o 380 drug deaths in 2019
 - 7% increase over 2018.
 - 318 due to opioids.
 - 85 caused by a combination of at least 2 substances.
 - 22% increase in cocaine deaths
 - 81% increase in methamphetamine deaths.
 - Only 29% had naloxone present.
 - Lack of access.
 - Using alone
 - o 354 in 2018.
 - 283 due to opioids.
- In Portland: 2019 rise over 2018
 - o 55 total overdose deaths in 2019
 - 41 deaths due to opioids.
 - o 44 total overdose deaths in 2018.
- Needle Exchange Program in 2019:
 - o Collected 257,187 syringes.
 - o Distributed 221,000.
 - o Made 17,00 referrals to services and substance use disorder treatment.
 - o Dispensed 1,330 doses of naloxone
 - o Clients self-reported:
 - 199 overdose reversals
 - 12 fatalities.
 - 30% of these included a call to 911.
 - o Demographics
 - 3,550 enrollees
 - 65% male
 - 35% female
 - 96% are white and English speaking.
- Substance Use Prevention and Harm Reduction Program
 - o Technical Assistance

- Education to community partners and businesses to implement an overdose prevention protocol.
- Primary Prevention
 - Work in schools and with families and parents.
- Target Outreach.
 - At shelters and recovery houses
 - OD Map
- Community Sharps Boxes
 - Collected by public Works and numbers get recorded.
- Virtual Presentations offered twice a day on Mondays.
 - Anonymous
 - People can be mailed naloxone after completed presentation..
- Healthy Hand Offs for Needle Exchange Program.
 - Minimizing people coming into the building.
- Methamphetamine Task Force created.
- Mobile Medical Outreach Program temporarily suspended as it occurs in the Oxford Street Shelter.
 - Received CDBG funding.
- State Emergency Medical Services looking to change the law on Leave Behind Naloxone.
 - EMS related first responders currently cannot leave behind naloxone.
- Funding for a patient navigator.
 - Similar to Oliver Bradeen's work but referrals will be made through direct outreach instead of 911.

AGENDA ITEM 5 – City staff report out on overdose prevention efforts

Committee questions and Discussion

- Councilor Chong asked that the needle exchange program is the reason we have a lower rate of opioid overdose deaths than the state; looking at the increase in overdose deaths due to cocaine and methamphetamine across the state, is Portland seeing an increase too?
 - There is not city-level data but it is likely.
 - Is there anything we can do to lower those overdose rates?
 - State task force is looking to put together a tool kit for response as interventions can be dangerous.
 - Keeping people as safe in their use as possible: using test strips to see if there are opioids/fentanyl in their supply.
 - Is there an increase in opiate deaths from quarantine making it difficult to get naloxone?
 - Possibly, but it is too soon to know.
 - What support is needed from the Council, such as test strips given to users?
 - Staying informed and share information with the community.
 - Fentanyl test strips are currently not offered but community partners do.
- Chair Ray asked if the overdose deaths attributed to opioids that are up this year were up over 2017; is there a tending increase.?
 - 84% in 2019

- o 85% in 2017

PD Overdose Update

- Each officer carries Naloxone.
 - o An officer was exposed to a white powder during an interaction from a gust of wind. It was believed to be fentanyl and the responding officer administered naloxone.
- Bridges for Maine Program
 - o Cumberland County Jail is a pilot location for Medically Assisted Treatment (MAT) for people to receive treatment after reentry from incarceration.
- OD Map
 - o National platform that allows officers to enter information (date, time, type of drug, if naloxone was administered, gender and age).
 - o Data added is sent to partners when entered.
 - o Allows to monitor for regional spikes in neighboring communities.
 - DHHS reached out to Poison Control and do education when people who thought they were using opiates found the effects were from stimulants.
 - o OD Map was used in March when the India Street and Needle Exchange were closed; the OD Map showed an uptick in overdoses prompting the program to open sooner. Having the data prompted fast public health intervention.
 - o Oliver Bradeen is the liaison to the Bridges for Maine program and other groups to provide resources for people with substance use disorders and their families.
 - He is working remotely and making more connections by phone.
 - More calls by officers for referrals since they cannot access him in the office.
 - o Data isn't collected but here is an anecdotal increase in stimulants: methamphetamine, cocaine and crack cocaine.
 - o No existing resources and looking at expanding drug court and wrap around services if the criminal justice system gets involved.

Committee questions and Discussion

- Councilor Chong asked how other communities experiencing methamphetamine overdoses working to prevent overdoses outside of drug courts? Are they giving out test strips?
 - o It has been an issue looked at out west for years.
 - No information on test strips.
 - Focus on prevention.
- Councilor Ray asked what follow up to the addiction workshop at the start of the year has happened.
 - o Public health will be meeting with in a couple weeks to follow-up.
 - o Recommendations will be part of the community health improvement plan.
- Fire's data shows January to Date 2019 had 76 overdoses and January to Date 2020 is 66.
 - o Narcan use is down compared to 6 years ago.
- Mobile Medical Outreach grant funding allows EMS provide services at the shelter.
- Councilor Ray asked about the rule change for first responders to leave behind naloxone; is it happening in the legislature?

- o Bridget said she believes it will be an emergency order from the governor and will confirm for the committee.

AGENDA ITEM 5 – Next Steps

- The next meeting is June 9th.
 - o Fire will update on sprinklers.
- It is unclear if the meeting will be in-person or remote.

The meeting adjourned at approximately 7:02 PM.

Portland Police Department

POST PROTEST DISCUSSION OF

PPD POLICIES,

PROCEDURES & TRAINING

City of Portland
HHS/Public Safety
Subcommittee
June 9, 2020



Agenda

- Mission / Values
- Recruitment
- Hiring
- Training
- Policies / Procedures
- 8 Can't Wait Assessment
- National Consensus Policy
- 21st Century Policing Report
- Next Steps



Mission Statement

To maintain a safe city by working in partnership with the community to prevent and reduce crime, protect life and property, help resolve neighborhood problems and protect the rights of all.



Guiding Values

Leadership: Leadership is the hallmark of the Portland Police Department. We seek to encourage neighborhood partnerships and to inspire positive programs to implement community change. We work cooperatively with other law enforcement agencies and strive to be a model for effective, progressive policing. We commit to empowering all employees to be creative and innovative and take a leadership role in our organization.

Integrity: Integrity for each and every member of the Department is the basis of our credibility within the community. We honor our oath as police officers and, all employees, sworn and civilian, seek to maintain the highest professional and ethical standards. We are honest, fair, and respectful in our interactions with the public and honor our commitments to the community and each other.

Service: The Portland Police Department exists to serve our City. We are professionals who gratefully accept the responsibility of keeping our neighborhoods safe. We serve with pride and compassion and are committed to the successful achievement of our collective goals. We value, respect, and embrace diversity within our agency and the community.



Overview

Sworn Staff:	161 Authorized (9 current openings)
PRCC Staff:	37 Authorized (6 current openings)
Calls for Service:	80,323 (2019)
Specialties:	Patrol , CID, CPU, SRO, CRU, Behavioral Health & Substance Use Disorder Liaisons
Budget:	~ 94% personnel

Recruitment

The department has met recent challenges in increasing our applicant pool with a number of initiatives specific to diversifying the applicant pool and supporting minority candidates in the areas that we identified as stumbling blocks.

- Created an internal social media and recruitment team
- Assigned a full -time officer to recruitment
 - Increased one on one meetings and ridealong opportunities
 - Conducted direct outreach to area Adult Education offices and technical schools, specifically seeking ESL students for workforce diversification

Increased our self-identified minority test takers by almost 10% in the last ten years- most recent process at 23 %

Hiring Process

- **Application** - 2018 revisions to qualifications allow for non-citizens to apply
- **Written Entry Test** - National Criminal Justice Officer Selection Inventory (NCJOSI2)
 - Two part: Cognitive and Integrity
 - Screens for anti-social behavior, aggression, deviance, ethical and moral character, honesty, stress tolerance, level of fairness, equity and emotional stability, among others
 - Requested adverse impact study. Changes were made to test bolstering validity and increased minority passage rates.
- **Physical Fitness Test** - State designated standards (Push ups, Sit ups, 1.5 mile run)
- **Panel Interview** - 30 minute staff and civil service interview which includes questions related to community relations, as well as what skills/traits does the applicant possess to help them thrive in policing within a diverse community

Hiring

- **Thorough Background Investigation** - Assess work, educational and personal behavior history to assess suitability and disqualifying conduct or convictions
- **Polygraph**- The department is contracted with an American Polygraph Association certified polygraphist who tests on topics such as aggression, temperament , substance use and criminal history.
- **Job Suitability Assessment**- A licensed psychologist conducts an in depth review, testing and interview of each candidate with specific tests in areas such as empathy, self control, bias, empathy, dominance, anger management and interpersonal / de-escalation capacity. Assessment of candidate knowledge of the city's various refugee and asylee populations, people of color, people experiencing homelessness or mental illness.
- **Medical Examination** - city contracted licensed healthcare provider

Training - Use of Force

- Mandatory Annual Training
 - 2020
 - Situational Use of Force
 - Assessment & Decision making
 - New Law Updates
 - Approach to Substance Use Disorders
 - Since 2018, included:
 - Responding to Mental Health Crises
 - Policing the teen brain
 - Impaired Driver Recognition
 - Human Trafficking, Death and Sexual Assault investigative training

Training - Bias / Cultural Awareness

- Biennial training
- 2016 - 100% of Sworn Officers Trained Implicit Bias
- 2018 - 100% of Sworn Officers Trained Implicit Bias
- June 3, 2020 - scheduled implicit bias training postponed due to COVID-19
- June 2020 - 100% Cultural Competency online training

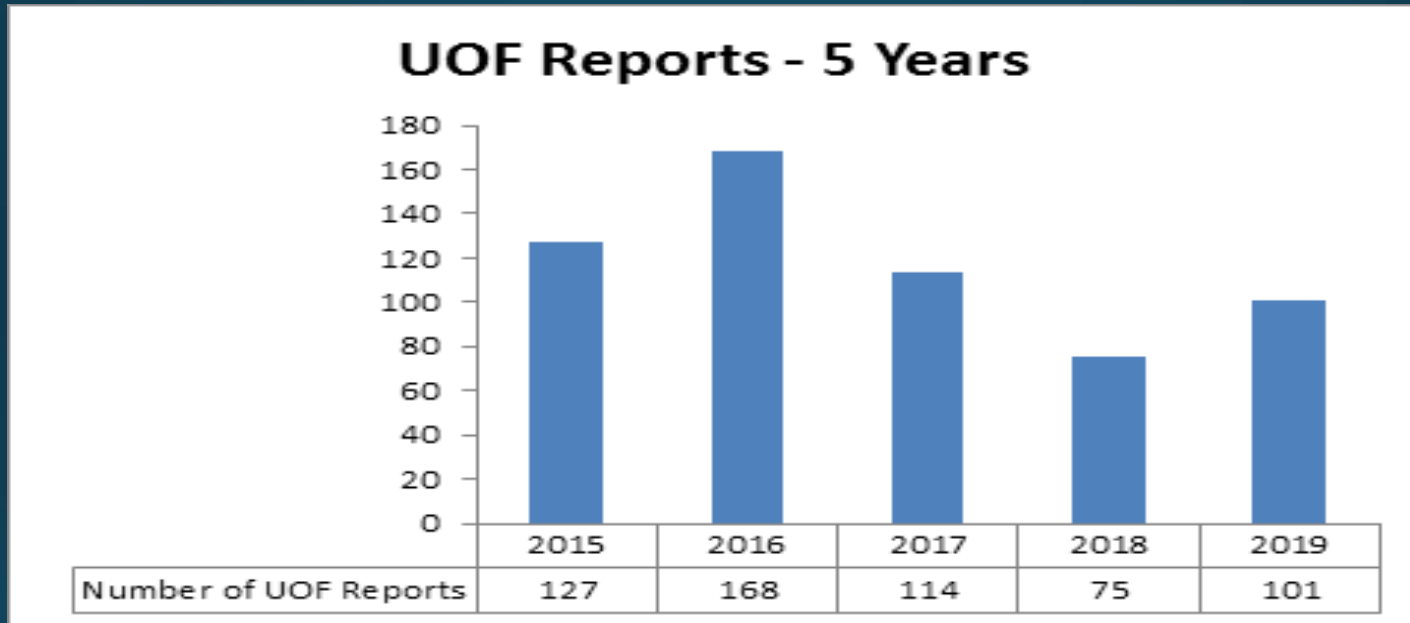
Training - Bias

- 2018 HR Diversity & Inclusion Seminar - all personnel
 - Explicit / Implicit bias
 - Responding to acts of bias
 - Respect for diversity, equity & inclusion
- 2020 Reducing Bias in the Hiring Process
 - Police Recruitment / HR staff

Training - De-escalation

- In 2001, Portland PD became the first agency in the State of Maine to field officers with Crisis Intervention Training, a key component of which is de-escalation
- The State requires that 20% of an agency's officers attend 8 hours of mental health awareness training.
- PPD mandates 100% of officers attend the 40 hour NAMI sponsored and nationally recognized **Crisis Intervention Training**, within 2 years of becoming a sworn officer.
- All officers are also required to attend 16 hours of **Verbal Judo** training within their first two years of service.
 - Verbal skills needed to de-escalate conflict and potential violence

Use of Force - Statistics



In 2019, officers used force approximately 0.13% of the time relative to total calls for service, and approximately 3.8% of the time relative to total arrests (2,651).

Use of Force - Reporting

- Whenever an officer acting in an official capacity uses deadly, less-lethal or non-deadly force against another person, the officer shall immediately call a superior officer to the scene or, if that is not practical, contact a superior officer as soon as possible following the incident.
- The following uses of force must be documented in a report for command review:
 - physical force that results in injury or death (this does not include death or injury in a traffic accident);
 - the application of force by a firearm, Taser, baton, O.C. Spray, impact projectile, a pepperball, striking an individual with his/her hands, feet, knees or elbow or any other weapon or implement;
 - a police canine bite of an individual; other than the canine's handler.

Use of Force - Reporting- cont'd

- transport of a person in four-point restraint
 - the application of physical force as defined by SOP;
 - any physical act that imposes a degree of force greater than hand control or escort techniques to overcome resistance.
 - any time the Shift Commander, after consultation with the supervisor and officer using force, deems it reportable.
- Hand control or escort techniques (e.g., a grip on an extremity, holding a person's legs) applied for the purposes of handcuffing or escort that do not result in injury or the complaint of injury, are not reportable uses of force.

Use of Force - Investigation

- All uses of force are investigated by a superior officer:
 - The immediate supervisor of the involved officer will interview the officer, any other officers present at the use of force and any witnesses.
 - The supervisor will also interview the subject on whom the force was used.
 - The supervisor shall make every effort to ID witnesses, and ensure that any injured individuals receive immediate medical attention.
- If the use of force results in serious bodily injury, the Shift Commander will initiate a command notification. The Assistant Chief will notify the Internal Affairs Lieutenant who will assign an investigator to begin an immediate investigation. All uses of deadly force shall be investigated as outlined in SOP.
- After the investigation is completed; the Shift Commander shall review the completed reports and any supplements to ensure they are thorough and complete.
- The reports will be forwarded through the command staff review process.

Use of Force - Review

- The Use of Force Review Committee will meet monthly to review use of force incidents in detail. The committee chair will be the Internal Affairs Lieutenant. In addition, the committee will consist of Command staff, the Internal Affairs Sergeant(s), a PBA representative, a SOA representative and the Police Attorney.
- The Chair shall schedule the committee meetings and provide the committee with all pertinent information covering the incident and officer(s) in question.

Use of Force - Review

- The Command staff and the Use of Force Review Committee shall use the following criteria in reviewing use of force incidents:
 - Did the officer utilize an appropriate level of force for the situation;
 - Were the officer's actions reasonable;
 - Did the officer use department-authorized weapon systems and tools in an appropriate manner;
 - Was the force promptly reported and correctly documented;
 - Was the use of force consistent with the officer's training and experience;
 - Did the officer attempt to de-escalate the situation prior to the use of force (if feasible);
 - Did the officer place other members of the public at risk by his/her actions;
 - Did the officer's actions contribute to the necessity to use force;
 - Did the use of force policy effectively address the situation,
 - Was department training adequate;
 - Were the use of force options available to the officer adequate to control the situation;
 - Is there a pattern of misuse of this type of force, either by a particular officer or department-wide; and
 - Was the use of force within Department policy?

Use of Force - Review

- After reviewing each incident, the committee will seek to identify actions that may indicate a policy or procedure violation, a training need, a policy or procedure modification or an equipment deficiency.
- If the Committee does identify a problematic event it shall direct such steps to be taken as are necessary to correct the problem. This shall include, but not be limited to: ordering a written clarification of the incident; the filing of an internal complaint; ordering remedial training or counseling; recommending a change in standard operating procedure or recommending modifications to issued equipment.

Performance Evaluations

- Continuous process including daily observation and regular feedback
- Written annual evaluation plus written six month progress report
- Provides a means for measuring, recognizing, maintaining or improving employee performance
- Helps align individual and organizational goals, identify training needs, foster appropriate behavior and modify inappropriate behavior

Performance Management

- Written policy codifies supervisory oversight responsibilities
- Designed to reinforce positive behaviors, correct sub-standard performance, and identify early signs of problems which may be negatively influencing an employee's job performance
 - Begins with daily direction and performance feedback
 - Incorporates peer support, consultation with the chaplains, and, if necessary, referrals to EAP or other professional counseling services
 - Corrective training may also be used to address specific performance problems.

Performance Management Review

- Early warning system for identifying officers at risk of engaging in negative interactions with community members
- Certain data points (e.g., 3 uses of force in 90 days, 7 in 365 days, or 2 disciplinary actions within 12 months) trigger comprehensive review of officer performance
- Results of review are used to develop an Action Plan to address root causes of any performance problems
- Action Plan may include: counseling, peer support, EAP, training, reassignment, establishment of performance goals, increased supervision, referral for fitness for duty evaluation, and/or creation of a Job Improvement Plan

Performance Management Review

The review includes examination of:

- Awards and Commendations
- Training
- Calls for Service
- Arrests; including a breakdown of the criminal charges.
- Use of Force Incidents
- Assaults on an Officer
- Sick Leave Usage
- Motor Vehicle Pursuits
- Discipline
- Overtime/Leave Usage/Comp time balance

Performance Management Review - cont'd

- Cruiser Accidents
- Complaints: including a brief summary of all Internal Affairs investigations involving the officer.
- No Complaints and Resubmits returned from the District Attorney's Office.
- Outside Employment
- Most recent annual performance evaluation and progress reports within the last 12 months, and
- Notices of Claim
- The dates of Performance Reviews completed within the previous five (5) years and the resulting action plans.
- Job Improvement Plans since the last evaluation.

Job Improvement Plan

- Used to bring areas of ongoing concern to an employee's attention
- Identifies trends of behavior or levels of performance that need improvement
- Plan includes
 - The identified problem behavior or performance concern
 - A detailed list of steps to be taken by the employee
 - Details regarding how progress is to be measured
 - Review Dates to monitor progress

Internal Affairs

- SOP requires acceptance of all “complaints” against police personnel.
- A Complaint is an allegation of employee misconduct which, if true, would constitute a violation of law or standard operating procedure.
 - External Complaints: A verbal or written allegation of employee misconduct made by a member of the public or an anonymous source.
 - Internal Complaints: A verbal or written allegation of employee misconduct made by a police department employee (oftentimes by a supervisor or command level officer).

Internal Affairs

	Total Complaints	External Complaints	Internal Complaints
2019	13	6	7
2018	20	14	6
2017	21	8	13
2016	24	14	10
2015	17	10	7

Police Citizen Review Subcommittee

- Seven volunteer members from the community Civil Service Commission Subcommittee
- Receives all external internal affairs (IA) complaint investigative materials
- Reviews the process of IA investigations to ensure they are *thorough, objective, fair and timely*.
- Reports to the city manager on results of the reviews
- Reports to the city manager any recommendations or proposals for improving police investigation process, policies or training, and for enhancing public confidence in the complaint investigation process
- Holds public hearings to receive public comments on the police citizen complaint process.

Body Worn Cameras - Mandatory Recording

- Any law enforcement encounter (an encounter with potential for official law enforcement action)
- Any request for consent (e.g. consent to search a vehicle)
- Once the camera is on, it must stay on unless:
 - at the request of a crime victim
 - at the request of someone having a reasonable expectation of privacy in a location
 - to obtain information from a reluctant source

Body Worn Cameras - Prohibited Recording

- When communicating with co-workers without their consent
- When on break or otherwise engaged in personal activities
- While appearing before an officer of the court
- While inside a correctional facility
- During encounters with undercover officers or confidential informants
- During tactical or strategic planning
- While conducting a strip search
- While conducting an intoxylizer test (RF interference)
- While conducting safety planning with a domestic violence victim.

Body Worn Cameras: Constitutionally Protected Assemblies

- Facilitating the First Amendment rights of individuals is one of our primary law enforcement purposes
- Officers present at an assembly for law enforcement purposes will record these events for purposes of documenting violations of law and police actions and for training purposes
- These recordings shall not be used for intelligence or to identify individuals not engaged in criminal activity

8 Can't Wait Principles

Ban Strangleholds and Neckholds

Prohibited unless deadly force is justified

Require De-escalation

Required to attempt de-escalation except in the case of an immediate attack on an officer or 3rd party

Require Warning Before Shooting

Warning required if feasible and if it won't endanger the officer or others

Require Officer Exhaust All Alternatives Before Shooting

Clear goal of any interaction, not articulated in policy.

8 Can't Wait Principles, cont

Impose a Duty to Intervene

Officers have a duty to intervene and report any unreasonable use of force by other officers.

Prohibit Shooting from a Moving Vehicle

Prohibited unless exigency, with expectation of articulable reason to use such force

Require Use of Force Continuum

Now Situational Use of Force Matrix. Force must be proportionate / responsive to the threatened force

Require Comprehensive Reporting

Officers must report any force greater than hand control / escort for purposes of handcuffing or escort.

Use of Force - National Consensus Policy

- Collaborative effort reflecting the best thinking of 11 significant law enforcement organizations in the U.S.. Intended to serve as a template for police agencies to compare and enhance existing policies
 - International Association of Chiefs of Police (IACP)
 - Commission on the Accreditation for Law Enforcement Agencies (CALEA)
 - National Organization of Black Law Enforcement Executives (NOBLE)
 - Hispanic American Police Command Officers Association
 - National Association of Police Organizations (NAPO)
 - National Association of Women Law Enforcement Executives (NAWLEE)
 - Association of State Criminal Investigative Agencies (ASCIA)
 - Fraternal Order of Police (FOP)
 - Federal Law Enforcement Officers Association
 - International Association of Directors of Law Enforcement Standards & Training (IADLEST)
 - National Tactical Officers Association (NTOA)

Use of Force - National Consensus Policy

- Address, among other topics:
 - Preservation of human life.
 - De-escalation
 - Chokeholds
 - Shooting at / from moving vehicle
 - Warning shots
 - Lethal / Less Lethal force guidance
- Guide for national law enforcement policy making

21st Century Policing

- Post Ferguson (2015) Presidential Task Force
- Created to strengthen community policing, collaboration and trust among law enforcement officers and the communities they serve
- Aim to identify best policing practices and offer recommendations on how those practices can promote effective crime reduction while building public trust
- Resulted in 59 recommendations and 92 action items developed by consensus of law enforcement leaders, police unions, academia, civil rights organizations, and community members

21st Century Policing

- **6 Pillars:**

- **Building Trust & Legitimacy**

- Guardian mindset
 - Procedural justice
 - Treating people with dignity and respect
 - Giving individuals 'voice' during encounters
 - Being neutral and transparent in decision making
 - Conveying trustworthy motives

- **Policy & Oversight**

- Up to date and regularly reviewed
 - Use of Force
 - Searches

21st Century Policing

- **6 Pillars:**

- **Technology & Social Media**

- Effectiveness, efficiencies, improved data and outcomes
 - Include community engagement and outreach
 - Privacy rights

- **Community Policing & Crime Reduction**

- Guiding philosophy and goal
 - Community engagement
 - Multi-disciplinary collaboration

21st Century Policing

- **6 Pillars:**

- **Training & Education**

- Needs to be increased to accommodate wide challenges
 - Include mandatory CIT training
 - Implicit bias
 - Policing in a democratic society
 - Social and Tactical skills

- **Officer Wellness & Safety**

- Review LEOKA to reduce officer deaths / injuries
 - U.S. - 97 LODD, YTD. ~60K officers assaulted
 - Vests & Seat belts
 - Tactical First Aid kits
 - Shift lengths

Where do we go from here:

- Continue Strategic Planning Efforts: 5-year plan
 - Internal and Community Input (COVID pause)
- Enhance Outreach, Engagement, Listening and Transparency
 - Community Policing - agency culture
 - Engage COPS Office Community Engagement SME
- Continuing Review and Revision of Current SOPs & Related Training
 - Use of Force (Transitioning to “Response to Resistance”)
 - Internal Affairs
 - Domestic Abuse
 - Pursuits
 - Hostage / Barricade Incidents
 - Hate/Bias crime

Where do we go from here:

- Adoption additional policies
 - Bias-based policing
- Complete evaluation and implementation of Evidence-Based 21st Century Policing Recommendations
- Consider LE Accreditation to challenge agency, enhance management systems, and invite ongoing critical external review
- Consult with psychologist for additional pre-employment tools to screen for unwanted character traits
- Seek further diversification of workforce to more closely mirror community demographics. #JoinOurTeam!

What else?

Options When Filing a Complaint about an Officer

The Portland Police Department takes your complaint seriously and we want to ensure that you have a clear understanding of all your options. We pledge that in all circumstances your complaint will be fully documented and forwarded to the Chief of Police.

In some instances we will insist that a formal complaint is taken and fully investigated by the Internal Affairs Unit. If your complaint alleges criminal activity, excessive force, improper arrest, search or entry, or civil rights violations our department rules require a formal internal investigation. You will be asked to provide the details of the incident to a supervisor as part of the initial complaint and an investigator will contact you within a few days. Even if your complaint is less serious in nature you can still file a formal complaint.

If your complaint is less serious in nature you also have another option available. We know that by taking the time to listen and resolve the complaint at the initial contact, it may be possible to clear up an issue without requiring a formal and sometimes lengthy investigation. Some complaints such as rudeness or concerns about an officers driving can be handled by a process we call cooperative resolution. This process is reserved for minor complaints that you wish to bring to our attention but you agree do not require a formal investigation or discipline. If you prefer to make a supervisor aware of your concerns and allow us to discuss the matter with the officer a cooperative resolution might be appropriate.

Some things to consider about a cooperative resolution:

- It is your choice how we proceed, either by a formal complaint or cooperative resolution. Once we opt for a cooperative resolution we cannot go back later and file a formal complaint. *Initial* _____
- Cooperative resolutions provide much faster outcomes and feedback to you and the officer. Formal complaints typically take several months to fully investigate and review. *Initial* _____
- There is no formal discipline or finding of wrong doing associated with a cooperative resolution like there might be in a formal complaint. A supervisor can still review things like performance expectations and department policy with the officer but formal discipline will not occur. We may also require refresher training. *Initial* _____
- A cooperative resolution does not necessarily imply there was wrong doing on the part of the officer. *Initial* _____
- All cooperative resolutions are tracked and analyzed by the Internal Affairs unit for patterns and trends. *Initial* _____
- The Chief of Police reviews every complaint, formal and cooperative resolutions. *Initial* _____

PORTLAND POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

	Effective Date 01/15/2012	Number 1A
Subject Use of Force		
Amendment Date 10/22/2017		

I. Purpose

To provide officers with guidelines regarding the use of deadly and less lethal force in accordance with State and Federal law. It is not possible for this policy to cover all the potential situations an officer may face while on duty, therefore this policy provides officers with an understanding of and guidelines for the use of force.

II. Policy

It is the policy of the Portland Police Department to value and preserve human life. Officers will employ force in the performance of their duties only when necessary, and only to the extent or degree necessary to accomplish a lawful objective. When resistance to police action or a threat to life or safety is encountered, police officers have a duty to exercise their authority and to use force to protect themselves and the public.

III. Definitions

- A. Blue Team: A software program used for reporting use of force incidents and supervisory review of the force incident.
- B. Compliance Techniques: Actual, physical bodily contact with a subject and forcibly controlling a subject until resistance is overcome. This includes control and defensive tactics, striking a subject with your body (avoiding the head and face), using OC spray, taking a subject to the ground or using a baton to effectuate a compliance hold. These tactics are the use of less lethal force. This level of force is used to counter escape, resistance, active aggression, or assaultive behavior that may result in bodily injury. These techniques are applied when other levels of force have failed or when the subject's behavior is actively resistant.
- C. Contact for Control Purposes: The use of light, physical touching to guide a subject's movements, to control a subject with an escort hold or to overcome low levels of resistance. The amount of physical force may be as minimal as placing a hand on a subject's shoulder or placing handcuffs on a compliant subject. This level of force is designed to control low levels of passive resistance.
- D. Deadly or Lethal Force: Physical force that a person uses with the intent of causing, or that a person knows to create a substantial risk of causing, death or serious bodily injury. This includes the discharge of a firearm, the delivery of a baton strike to a subject's head, or the use of a neck hold. Except for the use of less lethal munitions,

intentionally, knowingly or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force.

- E. De-Escalation: Taking action or communicating verbally or non-verbally in an attempt to stabilize a situation and reduce the immediacy of a threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- F. Defensive Tactics: The use of impact tools to gain compliance and control. These include: the baton, the pepperball system, impact projectiles or the use of the canine. All of these tactics are the use of less lethal force. This level of force employs the use of department-approved tools when less lethal force is justified and contact and compliance techniques have not worked or would not be effective given the subject's level of aggression or assault. When an officer uses this type of force, it should be used with the intent to temporarily disable an offender and not with the intent of causing bodily injury.
- G. Exigent Circumstances: Circumstances that would cause a reasonable police officer to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of evidence, the escape of a suspect, or some other behavior that is preventing legitimate law enforcement efforts. This definition does not address warrantless search and seizure, see SOP 41B.
- H. Impact Projectiles: Department-authorized munitions that can be fired, launched or propelled to control a dangerous subject.
- I. "Less lethal force" means any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another. Less lethal force is neither likely nor intended to cause death or serious injury. It is traditionally referred to as non-deadly force in Maine Statutes.
- J. "Less lethal devices" means an apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or serious injury than a lethal weapon (e.g., firearm).
- K. "Neck hold" means one of the following types of holds: (1) arm-bar control hold, a hold that inhibits breathing by compression of the airway in the neck; (2) carotid restraint hold, a hold that inhibits blood flow by compression of the blood vessels in the neck; (3) a lateral vascular neck constraint; or (4) a hold with a knee or other object to the back of a prone subject's neck. A neck hold shall be considered deadly force.
- L. Pain compliance: The application of pain to control or direct a person. Used both to assist with taking a person into custody and to encourage action on behalf of a person who is resisting.

- M. Physical Force: Physical force is the exertion of physical power by an officer against a person to compel or restrain the behavior of that person.
- N. Priority of Life: An assessment process used by officers to determine how to best respond to a situation that is potentially life threatening to a civilian and/or a police officer. Priority of Life is based on the principle that proper assessment of a situation includes the possibility that the risk of responding with certain tactics or actions may place civilians and/or officers at unacceptable risk.
- O. Probe: A small dart-like projectile which is connected to a wire lead utilized in deployment of a Taser.
- P. Reasonable Belief: For the purpose of this policy “reasonable belief” is defined as a belief based on the totality of facts and circumstances known to the officer at the time the force is used which would lead a reasonable officer to conclude that the use of force is lawful.
- Q. Serious Bodily Injury: Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health.
- R. Taser: a portable electronic control device from which an electrical current, impulse, wave or beam may be directed and which is designed to have a disabling effect upon a human being.
- S. Type of Resistance:
1. Cooperative: The subject is paying attention to and complying with the officer’s verbal directions or commands.
 2. Passive Resistance: The lowest level of physical resistance or behavior that is unresponsive to a police officer’s verbal communications or directions. The subject is non-compliant and resists the officer’s attempts at control by passive physical actions. Bracing, tensing, linking arms, or verbally indicating an intention to passively resist being taken into custody.
 3. Active Resistance: Physically resisting the officer’s attempts at control by direct, overt, physical actions. At this level, the subject may be attempting to push or pull away in a manner that does not allow the officer to establish control. The person is not assaultive towards the officer.
 4. Assaultive: The subject strikes or hits the officer to resist the officer’s attempts at control. The attack is a physical assault on the officer that could result in injury to the officer.

- 5. Threat of Death or Serious Bodily Injury: Overt, physical actions or force by a subject in which the subject assaults or attempts to assault the officer or a third person with a weapon, a technique, or an object that could result in death or serious bodily injury to the officer or others.
- T. Verbal Communication: The use of verbal communication to control or dictate an individual's actions. This includes the questioning of a subject, attempts at persuasion or direct orders. An officer's tone of voice and attitude, the clarity of the directions and the choice of words are all factors that bear on the effectiveness of verbal direction.

IV. Use of Force

- A. The use of force, whether deadly or less lethal, shall at all times be in accordance with the requirements of Title 17-A. All officers are responsible for being familiar with Title 17-A M.R.S. §§ 15, 107 and 108, and all other applicable statutes, as well as Chapter 2 of the Maine Law Enforcement Officer's Manual. Officers shall periodically be issued up-to-date copies of the Maine Criminal Code (Title 17-A). No Portland police officer is entitled to use force to effectuate a police purpose without first being trained in the use of that force. However, in life threatening situations; officers are permitted to use any force necessary, including deadly force, to insure the safety of themselves and others from imminent death or serious bodily injury.
- B. Officers shall use the amount of force, either deadly or less lethal, reasonably necessary to control a situation, effect an arrest, overcome resistance or defend themselves or others from harm. The reasonableness of a particular use of force is based on the totality of circumstances known to the officer at the time of the use of force and the rights of the subject on whom the force is used. It will be judged from the perspective of a reasonable officer at the scene, rather than in hindsight, and will recognize that police officers are often forced to make split-second decisions, in circumstances that are tense, uncertain, and rapidly evolving.
- C. The use of force shall be proportional to an individual's resistance. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be reasonable and necessary to counter it. Once it is safe to do so and the threat is contained, and/or the subject complies with the officer's orders, the force must stop. Officers must rely on training, experience and assessment of the situation to continually evaluate the appropriate level of force to be applied.
- D. An officer has a duty to intervene, at the earliest, safe opportunity to prevent or stop the use of unreasonable force by another officer. The incident must be immediately reported to a supervisor.
- E. Less Lethal Force

1. An officer is justified in using a reasonable degree of less lethal force upon another person when the officer reasonably believes it is:
 - a. Necessary to effect a lawful arrest or prevent an escape from a lawful arrest;
 - b. Necessary to defend him/herself or a third person from what is believed to be the imminent use of force against him/herself or a third person; or
 - c. Necessary to restrain a person who the officer reasonably believes is about to commit suicide or inflict bodily injury upon him/herself.
2. If an officer knows that an arrest or detention is illegal, then the use of force is not justified.
3. The use of less lethal force shall be restricted to circumstances specified by law when necessary to accomplish a police task such as the arrest of a subject or to defend against an imminent use of non-deadly force. It shall be used only after attempts at persuasion, de-escalation and verbal commands have failed and/or in an immediate physical attack upon the officer or defense of a third party. An officer shall allow an individual a reasonable amount of time and an opportunity to submit to verbal commands before force is used.

F. Deadly Force

1. An officer is justified in using deadly force only when he/she reasonably believes it is necessary:
 - a. To defend him/herself or a third person from what he/she reasonably believes is the imminent threat of death or serious bodily injury or the imminent use of deadly force. Deadly force should not be used against persons whose actions are a threat only to themselves or property.
 - b. To effect an arrest or prevent the escape of a person and the officer reasonably believes that:
 - i. The person has committed a crime involving the use or threatened use of deadly force, or is using a dangerous weapon in an attempt to escape; **and**
 - ii. There is an immediate danger that the person to be arrested will cause death or serious bodily injury to the officer or a third person unless apprehended without delay; **and**
 - iii. The person against whom the force is used has reason to know he/she is a police officer.

The force used must be a reasonable necessity to prevent the escape. In other words, there must be no other reasonable means available to prevent the escape.

2. If feasible, the officer must give a warning immediately prior to the use of deadly force, i.e. "stop or I'll shoot" and, if possible, multiple times. This warning should not be given if the officer believes that it would place the officer or others in jeopardy.
3. Officers should be aware that the mere fact that a person is a "fleeing felon" does not justify the use of deadly force.
4. The following uses of force, if the force results in serious bodily injury or death, will be reviewed by the Administrative Investigation Team as a deadly force incident (see SOP 90B):
 - i. the discharge of a firearm into or at a person;
 - ii. the delivery of a hit or strike to a subject's head with a baton or other heavy object; or
 - iii. the use of a neck hold.
5. When the use of deadly force does not result in serious bodily injury, the on-duty Shift Commander will arrange for command staff notification as outlined in SOP 48.

G. Medical Aid

Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his/her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

If an individual refuses medical attention this must be noted on the Blue Team Report.

V. **Situational Use of Force**

- A. Situational use of force is a process by which an officer assesses, plans, and responds to situations that threaten public and officer safety. The assessment process begins with the situation immediately confronting the officer, and moves to the suspect's behavior and the officer's perceptions and tactical considerations. Based on this assessment of the conditions, the officer chooses from the available response options

while continuing to assess, plan, and act to determine whether his/her actions are appropriate and effective in bringing the particular situation under control.

- B. Methods that an officer uses to gain control over a subject may be divided into the following categories: verbal direction or commands, contact for control purposes, physical control and compliance holds, defensive tactics and deadly force.

The dynamics of all encounters are different, and it would be impossible to attempt to categorize and define all the levels of response appropriate in any given situation. The appropriate level of force that may be used by an officer to control a person depends upon the particular circumstances that exist at the time the force is used. The degree of force employed, however, should be in direct relationship to the amount of resistance employed against the officer or the level of threat that a person poses to the officer or others. Important factors to consider when determining the level of force that may be applied to control a person include the person's age, size, fitness, experience, skill level, relative strength and the number of officers and suspects involved in an incident.

- C. Officers responding to a possible medical emergency and considering the use of force, should consider the following factors:

1. Is the person experiencing a medical emergency that renders him/her so irrational that he/she is incapable of making a rational decision under circumstances that pose an immediate threat of serious harm to him/herself or others?
2. Is some degree of force reasonably necessary to diminish the immediate threat?
3. Is it safe to issue a warning prior to the application of force?

VI. Priority of Life

A. Definition

Priority of life is an assessment process used by officers to determine how to best respond to a situation that is potentially life threatening to a civilian and/or a police officer. It is based on the principle that proper assessment of a situation includes the possibility that the risk of responding with certain tactics or actions may place civilians and/or officers at unacceptable risk.

B. Purpose

The sanctity of human life is at the heart of everything this department does and is always our first consideration. The department's mission statement, policies, and training programs emphasize the sanctity of all human life and the importance of treating all persons with dignity and respect.

Operational and tactical decisions shall be based on a priority of life scale that recognizes and weighs the principles of time, safety and risks, and legal considerations. Whenever possible, no human life should be put at risk, including the person creating the situation, unless the risk is reasonable and necessary based on the totality of circumstances known to the involved officers. The priority of life requires officers to first ensure the safety of innocent persons; such as, victims, witnesses, and hostages. This is followed by the safety of police officers, SRT officers, and, lastly, suicidal individuals or offenders.

C. Assessment Principles

1. Time

Use discretionary time to consider available options and alternative methods. In situations where discretionary time exists, officers may be able to maintain equal priority of life with all involved innocent persons.

2. Safety/Risk

The proposed action should take into consideration the safety of all those involved as well as the officers. If officers unnecessarily place themselves at risk, they may also place innocent persons at risk. The objectives of the proposed action need to provide justification for the predictable risk the action will involve. For example, the protection of personal property may not justify placing an officer or other person at foreseeable risk; while the imminent use of deadly force on an innocent person may justify the assumption of significant risk by an officer.

3. Legal Considerations

There must be a legal justification for any law enforcement response. An officer's proposed actions or entry upon property should be contingent on a reasonable belief that, based on the totality of facts and circumstances known to the officer at the time, the proposed action is necessary and lawful. The lack of an appropriate legal justification should stop any further immediate response (e.g., lack of a warrant or other legitimate means to enter private property or arrest).

VII. **Training**

A. All officers shall receive training, at least annually, on the department's use of force policy and related legal updates.

B. Officers will be issued copies of this directive and instructed in its application prior to being authorized to carry any weapon.

C. Training shall also be provided on a regular and periodic basis and designed to:

1. provide techniques for the use of de-escalation techniques and reinforce their importance;
2. simulate actual shooting situations and conditions;
3. enhance officers' discretion and judgment in using less lethal and deadly force in accordance with this policy; and
4. acknowledge the principle of priority of life.

D. All use of force training shall be documented.

VIII. Civil Liability for Use of Force

An officer may be subject to civil liability for the use of excessive force during an arrest. To establish a 4th Amendment claim of excessive force, the plaintiff must show that the use of force was unreasonable based on the totality of the circumstances. This includes:

- A. the extent to which the subject posed an immediate threat to the safety of the officer or another person;
- B. whether the subject was actively resisting arrest or was attempting to flee to avoid arrest; and
- C. the severity of the crime.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 12/8/2013	Number 1B
Subject	Use of Deadly Weapons, Firearm Procedures, and Qualifications	
Amendment Date	10/22/2017	

I. Purpose

The purpose of this policy is to establish procedures for the use of department-issued or approved firearms and other deadly weapons by sworn personnel. This policy also establishes procedures for firearm issuance, storage, handling, and qualification.

II. Policy

It is the policy of the Portland Police Department that officers will employ deadly force in the performance of their duties only when necessary, and only to the extent or degree necessary to accomplish a lawful objective. All department-issued or authorized firearms and other deadly weapons shall be stored, handled and used in a safe, competent and professional manner by all sworn personnel. All department owned or authorized firearms, which the officer is trained to use, will be made available for inspection, testing or safe-keeping upon request of a superior officer.

III. Definitions

Accidental discharge: the discharge of a firearm caused by an equipment malfunction.

Authorized Firearm: Any make, model, or caliber of firearm that meets the department's requirements and specifications and has been formally approved for on duty and/or off duty use by the Chief of Police. This includes both department issued and personally-owned duty handguns, backup handguns, shotguns, and rifles used for law enforcement purposes.

Backup Handgun: Any authorized personally-owned handgun that is carried concealed on duty to supplement an officer's duty handgun or a handgun carried concealed during an undercover detail with the permission of the detail supervisor.

Blue Team: A software program used for reporting use of force incidents and supervisory review of the force incident.

Designated Marksman: An officer who has received specialized training in the handling, marksmanship fundamentals and deployment of the M16/AR15 rifle and is authorized to carry the rifle while on duty.

Firearm: any weapon that is designed to expel a projectile by the action of an explosive.

Firearms Qualification: Periodic testing required of officers to determine their competency to carry/use authorized firearms.

Intentional discharge: The deliberate discharge of a firearm by an officer for a particular purpose.

Neck hold: One of the following types of holds: (1) arm-bar control hold, a hold that inhibits breathing by compression of the airway in the neck; (2) carotid restraint hold, a hold that inhibits blood flow by compression of the blood vessels in the neck; (3) lateral vascular neck constraint; or (4) a hold with a knee or other object to the back of a prone subject's neck. A neck hold is considered lethal force.

Negligent discharge: Any unintentional discharge of a firearm by an officer that is not due to an equipment malfunction.

Range officer: A police officer who has received firearms instructor training and is authorized to conduct firearm qualifications.

Range supervisor: A police supervisor, designated by the Chief of Police, who has received Maine Criminal Justice Academy certification, is a Certified Firearms Instructor, and is authorized to conduct and oversee the department's firearms program and manage the use of the range.

"Use of a firearm:" the on duty or off duty use of a duty or personal firearm (handgun, shotgun, rifle) for a law enforcement purpose.

Warning shot: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

IV. Authorized Duty Firearms

A. The following firearms are issued and approved for on duty use. Department-issued firearms shall not be modified in any way.

1. Glock Model 17, 19, 21, or 30
2. Glock Model 26 (for administrative or plainclothes duty only).
3. Bennelli 12 gauge shotgun
4. Smith & Wesson Model 64 .38 caliber revolver (only to dispose of animals)
5. AR15/M16 .223 caliber semi-automatic and automatic patrol rifle
6. Special Reaction Team members are authorized to utilize the following weapons upon qualification:
 - a. AR15/M16 .223 caliber semi-automatic and automatic patrol rifle;
 - b. H&K MP5 9mm caliber semi-automatic and automatic rifle;
 - c. H&R M14 .308 caliber semi-automatic rifle;
 - d. HS Precision .308 rifle;
 - e. H&K MP45 .45 caliber semi-automatic and automatic; and
 - f. Mossberg Model 590 compact 12 gauge shotgun (SRT breaching).
7. The Hazardous Devices Unit is authorized to utilize a Remington 870 shotgun for disabling or disruption of hazardous devices.

B. Approval for the use of personally-owned firearms and ammunition

1. Before an officer is allowed to carry a personally-owned firearm and ammunition either on duty, on duty as a back-up firearm or off duty for a police action, he/she must get written approval from the Chief of Police. Approvals will be maintained by the Range supervisor and filed in the Office of the Chief of Police.
2. After purchase and prior to any type of on duty use, the officer must have the firearm inspected by a department Range officer to make certain that the weapon is safe and in satisfactory working condition and has not been mechanically modified. The officer must provide the Range officer with the serial number of the firearm prior to on duty use.
3. Officers carrying personal firearms may not make any mechanical modification to the weapon. Additional equipment that does not affect the firing system of the weapon (i.e., sighting mechanisms) is allowed but must be cleared with the Range Supervisor prior to use. Any modification to the sighting mechanism requires requalification. Other authorized modifications may require requalification at the direction of the Range Supervisor.
4. Officers who choose to purchase a personal weapon for on duty use must return to the department their issued firearm and associated duty gear (holster, magazine pouch). The officer shall retain the department issued handgun light. Detectives and officers assigned to administrative duties who purchase a Glock 26 subcompact (9mm) for plainclothes, on duty use should retain the department-issued firearm for uniformed, on duty use.
5. Officers must purchase all related duty gear (holster, magazine pouch) for the personal firearm; except for the handgun light. Ankle holsters are prohibited for any firearm being carried as a primary duty weapon.
6. An officer's Allowable Apparel and Equipment stipend may be used for the purchase of the firearm, duty gear and/or ammunition.
7. Officers who purchase a personal firearm for on duty use are required to pass a transition course with the new weapon; including passing two consecutive qualification courses. Officers are responsible for the purchase of the ammunition necessary to complete the transition course.
8. The department will provide ammunition for all future training, qualification courses and duty carry. Only department-issued and authorized ammunition may be carried on duty. Utilization of re-load ammunition is only authorized for practice and training purposes.
9. Officers should be aware that an injury that results from routine, off duty maintenance and care of a personal firearm may not be considered a work-related or line of duty injury. The police department does not have the authority to make a determination of that issue.

10. Officers purchasing a personal firearm for on duty use are required to surrender possession of the weapon to the appropriate authorities, either the Portland Police Department or the Maine Attorney General's office, if the weapon is used as an instrument for the application of the use of force, as defined in the Maine Criminal Statutes.
11. It is not the responsibility of the City of Portland to reimburse officers for the maintenance, repair or replacement of personally-owned firearms unless a member of the command staff authorizes said repair or replacement.
12. Backup Firearms
 - a. As an additional safety measure and with the approval of the Chief of Police, an on duty officer may carry a personally-owned backup firearm. The backup firearm may be of the officer's choosing subject to the following restrictions:
 - i.. The caliber of the firearm may not exceed .45 caliber.
 - ii. Approval is restricted to one firearm per officer.
 - iii. The backup firearm must be completely concealed in a safe manner and in a holster under the uniform. The method of carry must be reviewed and approved by the Range officer.
 - iv. Only factory-manufactured, department authorized ammunition is allowed for on duty use and must be supplied at the officer's expense.
 - v. A Range officer must inspect the firearm to ensure that the weapon has adequate safety mechanisms.
 - b. Officers must qualify annually with the backup weapon as provided below, except the officer must provide the ammunition used to qualify.
 - c. Backup firearms must be inspected by a Range officer concurrent with the semi-annual qualifications. Officers are responsible for the maintenance, repair, and replacement of the backup firearm. Any modifications to the weapon must be inspected by a Range officer. The firearm must also be registered with the department.
 - d. Once the officer qualifies with the firearm, the Range officer will submit a memorandum to the Chief of Police who will forward a memo to the requesting officer indicating whether authorization has been granted.

V. Deadly Weapons

A. Firearms

Police officers shall only carry firearms and ammunition authorized by the department.

1. The following fact situations represent the **permissible use** of a firearm by a Portland police officer:
 - a. for training at an approved range;
 - b. to dispatch a non-domestic animal that humanely requires its removal from further suffering when other dispositions are impractical;
 - c. for the breaching of doors during dynamic entries by trained SRT members utilizing department-issued ammunition designed for breaching doors;
 - d. to dispatch an animal (including a domestic animal) that presents an imminent threat of injury to an officer or another person; or
 - e. as a means of applying deadly force as defined by Maine law.
2. The following fact situations represent **prohibited use** of a firearm by a Portland police officer:
 - a. as a warning shot;
 - b. at a moving vehicle, when the sole purpose is to disable the vehicle; however, firearms may be discharged at a moving vehicle if:
 - i. a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
 - ii. the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
 - c. from a moving vehicle; except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.
 - d. as an impact weapon, unless no other means of defense is available to an officer;
 - e. when there is an obvious danger to bystanders; or
 - f. any careless or casual use or display of a firearm.
3. Reporting the discharge of a firearm
 - a. Whenever an officer, on or off duty, accidentally, negligently or intentionally discharges a department-authorized firearm, a Blue Team report shall be filed. A Blue team report is not required if the intentional discharge of the firearm was for training or recreational purposes and no injury or property damage resulted. Any discharge of a personally-owned firearm that results in injury or property damage must be reported to a Portland Police supervisor, as soon as practicable.
 - b. Whenever an officer discharges a firearm to dispatch an animal that humanely requires its removal from further suffering; he/she must make notation in the call narrative field of CAD. The narrative must include a brief description documenting the safety of the location selected, the

number of rounds fired, and the weapon used. No additional documentation is required unless there are unintended damages or injury.

B. Batons

The delivery of a hit or strike to a subject's head with a baton or other heavy object may result in serious bodily injury or death. The head shall not be targeted unless the officer reasonably believes that the use of deadly force is justified.

C. Neck holds

Neck holds are prohibited except where lethal force is authorized.

VI. Procedures for the Proper Care, Use and Handling of a Firearm

A. Electronic copies of the Standard Operating Procedures are available to all personnel on the PPD intranet. Sworn personnel will be instructed in the use of force before being allowed to carry a firearm on duty. Officers shall report to their immediate supervisor any use of prescription drugs or other medication that they reasonably believe or their physician has advised might impair their ability or judgment to use a firearm.

B. Firearm Safety

1. Safety rules will not, in themselves, prevent an accident. It is necessary for every officer to make these rules a way of life. It is imperative that each officer exercise extreme care in the handling of all firearms, always emphasizing safety, whether on or off duty.
2. All sworn personnel shall follow the following safety rules:
 - a. Treat every gun as if it were loaded;
 - b. Never cock the firearm;
 - c. Keep your finger out of the trigger guard until you are prepared to fire the firearm;
 - d. Never give the firearm to anyone or take it from someone without checking to see that it is unloaded;
 - e. All firearms shall be carried and stored in a safe and secure manner. Each officer is responsible for the security of his/her firearm and shall not store a firearm in unsecured glove compartments, lockers, athletic bags, or other temporary storage facilities. Officers shall not store or leave a firearm in any place where the public has easy access to the weapon. Protect the firearm at all times to prevent loss, theft or it being intentionally taken away;
 - f. Maintain the firearm in good working order; and
 - g. Wear appropriate safety gear when training with a firearm;
 - h. No use of alcohol, intoxicants, or medicinal marijuana.
3. If a weapon is lost, stolen or damaged, the officer must promptly report that fact to a supervisor and file a report with the appropriate agency, if necessary.

C. Care of Firearms

1. Cleaning and care: Officers are responsible for the care and cleaning of department-issued firearms, as well as personally-owned firearms authorized to be carried both on and/or off duty. Weapons shall be clean and lubricated at all times. It is the officer's responsibility to ensure that his/her personally-owned firearm is properly and safely stored, used, handled and maintained and is used for on duty purposes solely by the purchasing officer.
2. Repairs: Firearms in need of repair shall be submitted without undue delay to a Range officer with a written memorandum describing the type of malfunction and, if known, the cause. All repairs must be completed by certified armorers or returned to the original manufacturer for repair.
3. Damage to weapons: Damage to a department-issued firearm must be immediately reported to the Shift Commander. A written memorandum must be submitted describing the damage. The firearm shall be taken out of service until checked by a Range officer.
4. Inspections: Officers must allow a supervisor or Range officer to inspect their weapon at any time for modifications, cleanliness, and functionality.

VII. Range Officer Responsibilities and Use of the Indoor Range

A. Range officers must:

1. Qualify with a score of 90% and be a firearms instructor,
2. Conduct and document all qualification sessions,
3. Forward all appropriate documentation to the Training Sergeant,
4. Notify the appropriate chain of command of an officer's failure to qualify,
5. Maintain the Firing Range,
6. Provide additional training to all officers, as needed,
7. Inspect all on-duty firearms following qualifications and familiarization to ensure they are clean and in proper working order; and
8. Document all repairs made to any department owned or authorized firearm.

B. Use of the indoor range

1. Portland PD officers in good standing will not be refused access to the range; unless the range is under repair.
2. Officers must wear the appropriate safety equipment while using the range. This includes body armor and eye and ear protection.
3. Non-departmental personnel, including personnel from outside law enforcement agencies, are not permitted to use the range without the prior approval of the Chief of Police, or his/her designee. Non-departmental personnel may be asked to sign a liability waiver prior to using the range.
4. Any damage and/or problems discovered in the range must be immediately reported to the Range supervisor and the on duty shift commander.

5. All handguns and rifles up to and including .308 caliber are permitted for use in the range.

VIII. Firearms Qualifications

Officers are required to abide by all department Standard Operating Procedures pertaining to firearms whether they carry a personal, department-authorized firearm or a department-issued firearm. Under no circumstances will an officer be allowed to carry a firearm for which he/she did not pass the department-administered training and proficiency testing. In order to be allowed to continue to carry a personal firearm off-duty for a law enforcement purpose, the officer must meet the department's firearm qualification standards annually.

A. Mandatory Qualifications

1. Officers must qualify semi-annually on all primary firearms that they are authorized to carry on-duty. Proficiency in approved backup firearms shall be tested annually.
2. The qualification test shall be approved by the Range Supervisor and Maine Criminal Justice Academy and administered by a Range Officer.
3. Officers must achieve a qualifying score of 80% or better, which shall be confirmed and observed by trained Range officer. Instructors and SRT members must achieve a qualifying score of 90%.
4. Each officer will be afforded two opportunities, at City expense, to qualify on the officer's duty weapon during the mandatory testing period. Any additional time or ammunition needed to become proficient will be at the officer's expense.
5. Officers must provide the ammunition necessary to qualify on approved backup firearms.
6. The Range officer will immediately notify the Major and the Training Sergeant of any failure to qualify. Failing to qualify with an approved backup firearm shall also be reported. Only one qualification attempt may be made during a 24-hour period. Any officer who fails to qualify within 72 hours of the initial attempt to qualify will be immediately relieved of street duty and all overtime assignments; until such time as they are qualified. At a minimum, successful completion of remedial training and qualification will be required prior to being allowed to return to full duty status.
7. Qualifications for Designated Marksmen: Prior to being issued an M16/AR15 rifle, designated marksmen must attend a 24-hour initial training course. Annual qualifications for designated marksmen will include 5 hours of training on an approved outdoor 100-yard range. During the course of a police call or other public safety incident, a rifle may only be deployed in a manner consistent with the designated marksman's training and experience.
8. The Commander of the Special Reaction Team will be responsible for maintaining the proficiency of Special Reaction Team [SRT] members in the use of any special firearms (M16/AR15, MP5, M14). Special firearm qualifications will be conducted semi-annually and SRT members must maintain a qualification score of 90% or better in all firearms utilized. Qualification scores will be maintained by the Commander of the Special Reaction team and sent to the Training Unit for inclusion in the officers' training records.

B. Mandatory familiarization

In addition to the semi-annual qualifications, officers will participate in firearm familiarization at least twice per year. Familiarization training will be conducted during an officer's on duty time with ammunition provided by the Department.

C. Remedial training

1. If an officer fails to successfully complete a firearms qualification, the Range officer shall re-train the officer in those areas found to be deficient.
2. The Range officer will be responsible for determining what training is needed. If remedial training is unsuccessful, a memo to that effect will be prepared and immediately forwarded to the Range supervisor, the Training Sergeant and through the appropriate chain of command. The Chief of Police will determine what further action will be taken.
3. If appropriate, a Range officer may make a recommendation for an officer to carry a department-authorized, alternate type of firearm more suited to the abilities, physical restrictions and skill level of the officer.

D. The Training Sergeant will document all firearms familiarization and qualifications.

IX. Firearm Availability and Off Duty Carry

A. Firearm Availability

1. Unless exempted for medical reasons or by the Shift Commander, every on-duty officer must be armed when leaving police headquarters.
2. Every officer assigned duties within headquarters must have his/her weapon available for use.
3. Firearms not being worn or carried by an officer will be stored in a safe place under lock and key. Unlocked desk drawers and unlocked lockers are not acceptable areas in the police department. In motor vehicles, the locked trunk or a department-approved gun rack are the only acceptable locations.
4. Before or upon entering a correctional facility, officers must secure all firearms in either locked vehicle trunk or a gun locker.
5. All firearms found to be unsafe upon inspection will be taken immediately out of service and repaired. Duty firearms will be replaced by a spare department firearm, which shall be in good working order. Upon completion of the repair, the firearm will be returned to the officer and the spare firearm secured in a locked safe on the range.

B. Carrying firearms off duty

1. Only approved firearms as outlined in this SOP are allowed to be carried off duty for law enforcement purposes.
2. The carrying of an off-duty firearm shall be as unobtrusive as possible. Officers should not carry a firearm off duty when they are using alcohol or drugs.
3. All firearms safety rules apply off duty as well as on duty.

4. Officers must qualify on an annual basis with any firearm approved for off duty, law enforcement-related use.
5. Nothing in this directive is intended to prevent an officer from owning or using any type of firearm for his/her off duty, personal use. The safe and secure storage of weapons at home while either on or off duty should be given special consideration. Firearms should be stored in a locked or secured area, with ammunition stored separately.

C. Carrying Firearms on Commercial Aircraft

When conducting official business that requires commercial airline travel, officers may secure their firearm in checked baggage or carry the firearm on their person.

1. To transport firearms in checked baggage, the officer must:
 - a. Declare all firearms to the airline during ticket counter check-in;
 - b. Place the unloaded firearm in a hard-sided, locked container which completely secures the firearm from access by anyone other than the owner;
 - c. Remain present during screening;
 - d. Comply with any additional airline specific regulations.
2. To carry a firearm onboard the aircraft, the officer must:
 - a. Successfully complete the Transportation Security Administration (TSA) Law Enforcement Flying Armed Course;
 - b. Follow all restrictions and requirements presented in the training course;
 - c. Present an operational need to have the weapon accessible from the time he or she would have otherwise checked the weapon;
 - d. Submit a National Law Enforcement Telecommunications System (NLETS) message to TSA at least 24 hours in advance of travel;
 - e. Provide the 8 character alphanumeric identifier sent by NLETS reply message when checking in at the airport;
 - f. Identify him/herself by presenting department credentials that include a full face picture, officer signature, and department authorizing official signature (a badge will not be accepted as the sole means of identification).
3. Officers should plan to arrive early at the airline counter to ensure sufficient time to present credentials, complete required paperwork and clear security.
4. If appropriate, the officer may request that he/she be notified of any other persons aboard the aircraft who are traveling armed.
5. The guidelines outlined above are subject to change by TSA at any time. Officers should always check in advance of travel for the most current regulations. Additionally, officers should be aware that airline personnel have final authority and may require that an officer surrender a weapon before boarding or while on a commercial aircraft.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 01/15/2012	Number 1C
Subject	Less Lethal Weapons	
Amendment Date	10/22/2017	

I. Purpose

To provide officers with guidelines regarding the use of less lethal weapons in the application of force. It is not possible for this policy to cover all the possible situations an officer may face while on-duty, therefore this policy provides officers with an understanding of and guidelines for the use of less lethal weapons and tactics.

II. Policy

It is the policy of the Portland Police Department that officers will utilize less lethal weapons in the performance of their duties only when necessary and only to the extent necessary to accomplish a lawful objective.

III. Definitions

- A. Blue Team: A software program used for reporting use of force incidents and supervisory review of the force incident.
- B. De-escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- C. Failure to Disperse: When six (6) or more persons are participating in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance, or alarm.
- D. Impact Projectiles: Department-authorized munitions that can be launched or propelled to control a dangerous subject who presents a threat to the officer or others
- E. "Less lethal weapon" means any apprehension or restraint tool that, when used as designed and intended, is less likely to cause death or serious injury than a conventional lethal weapon (e.g., firearm).
- F. Probe: A small dart-like projectile which is connected to a wire lead utilized in deployment of a Taser.
- G. Taser: a portable electronic control device from which an electrical current, impulse, wave or beam may be directed and which is designed to have a disabling effect upon a human being.

IV. Less Lethal Weapons

A. Batons

Only issued or authorized batons (wood or expandable metal batons) may be carried and batons shall not be altered in any manner (i.e., increased in weight). The baton is the only authorized impact tool; other than impact projectiles. Sound judgment must be exercised in the use of the baton due to its potential for causing death or serious bodily injury. The head, face and neck area of a person shall not be targeted when the baton is used. The primary targets shall be the major muscle masses of the arm, thigh or calf. These targets have a low risk of permanent injury. Officers may also utilize the baton for leveraging individual's extremities away from their body.

B. Taser

1. Equipment

- a. Only those officers trained in the use of the Taser are authorized to carry or deploy the device. Officers will only carry department issued Tasers. No changes, alterations, modifications, or substitutions shall be made to department issued Tasers.
- b. Tasers must be carried in department approved holsters and be worn on the side opposite the handgun. The device shall be carried fully armed with the safety in the on position. Only department issued cartridges shall be used.
- c. Each officer assigned a Taser will be responsible for spark testing and weapon inspection prior to the start of his/her shift and/or when the officer receives a Taser from another officer.
- d. Any Taser found to have a defective data port or audio/video component will be immediately taken out of service and labeled in need of repair. The officer who discovers the defect is responsible for notifying a supervisor of the problem.

2. Deployment

- a. The use of the Taser is considered to be the use of less lethal force. A Taser may be deployed on an aggressive or combative suspect when the officer reasonably believes, based on the totality of the circumstances:
 - i. that deadly force may not be justified or necessary; and
 - ii. attempts to subdue the subject with other less lethal tactics have been or will likely be ineffective in the situation; or
 - iii. it is not tactically sound for officers to approach within contact range of the suspect.
- b. Preferred areas for Taser deployment are the back, abdominal region, and lower extremities. Officers are not to target sensitive areas of the body to include the face, neck, groin, and heart.
- c. Taser can be applied either by probe deployment or drive stun. Drive stun is effective at causing loss of neuromuscular control when used to complete a

circuit after one probe dislodges or has missed the target. Drive stun can be used in close quarters to create a safe distance between an officer and suspect and for officer protection. Drive stun mode used as pain compliance is much less effective and may prove ineffective against individuals resistant to pain due to an altered mental state. Officers should consider other compliance methods and tactics rather than pain compliance through drive stun.

- d. The use of the Taser is not appropriate in those situations in which a subject is only non-compliant or passively resistant and poses no threat to the officer's or a third party's safety. A verbal threat of violence by a suspect does not in itself justify the use of the Taser. It is important for officers to verbalize with the suspect. Warnings that the Taser is about to be activated can lead to the de-escalation of the situation, thus reducing the chance of injury to both the subject and the officers. The use of the Taser's laser sight can be a deterrent and is not a reportable use of force. Whenever possible an announcement should be made to other personnel on scene that the Taser is about to be deployed by stating "Taser Taser Taser."
- e. Officers shall **not** deploy the Taser when the suspect is:
 - i. in control of a motor vehicle;
 - ii. in an elevated position (i.e., roof, stairs) that creates a serious risk of a fall that may injure the subject;
 - iii. in danger of being caught in machinery or heavy equipment that could result in death or serious bodily injury;
 - iv. attempting to escape or fleeing and the Taser is deployed solely to prevent the subject from escaping or fleeing;
 - v. near flammable or combustible fumes (see Section g below);
 - vi. immediately adjacent to or in a body of water;
 - vii. a young child, an elderly person, a person who is visibly frail, known to be pregnant, or a person with low body mass; or
 - viii. a handcuffed prisoner except to prevent serious bodily injury to themselves or others and lesser control tactics have been ineffective.
- f. Officers are cautioned that repeated discharges of a Taser may cause death or serious bodily injury and often will not result in compliance if the suspect has been incapacitated and is incapable of obeying officer's commands. Officers must apply one standard cycle (5 seconds) and evaluate to determine if there is a need for additional cycles. Each discharge must be reasonable at the time of the incident. No more than three (3) discharges, 15 seconds total, shall be applied to an individual.
- g. The Taser has the ability to ignite flammable liquids. It may not be deployed at subjects who have come in contact with flammable liquids or in environments where flammable liquids are obviously present. Officers are cautioned that some law enforcement agencies utilize pepper or other self-defense sprays that are flammable and could be dangerous if used in conjunction with the Taser. The Taser may be used with Portland Police Department authorized OC Spray because it is non-flammable and designed for Taser use.

3. Medical attention

- a. Medical attention must be provided immediately to anyone subjected to a Taser discharge. Treatment may consist of an EMS evaluation in the field or transport to a hospital. It is the responsibility of the responding supervisor to notify EMS.
- b. If a subject loses consciousness after a Taser deployment or if three discharges are applied, the individual must be transported by ambulance to a hospital for examination.
- c. Probes that are imbedded in a sensitive area of the body (e.g. face, neck, breast, or genital area) need to be removed by medical personnel. In these cases, the subject must be transported to the hospital for examination and removal of the probes. Officers trained in the use of the Taser may remove probes under normal circumstances.
- d. Probes that have penetrated the skin should be treated and disposed of as a bio-hazard.
- e. Officers must advise jail staff if a prisoner has received a Taser discharge and ask that the prisoner is monitored regularly while in custody. This is required even after the individual has been medically cleared.

C. Oleoresin Capsicum (O.C.) Spray

1. Officers shall carry only Department-issued O.C. Spray canisters. The Department will exclusively issue non-flammable O.C. Spray that is compatible with the use of Tasers. O.C. Spray may only be carried by officers who have been trained in its proper use. Officers should be aware that O.C. spray is not universally effective and should be a supplement to, rather than a replacement for, other means of controlling a subject.
2. The use of O.C. spray is not appropriate in those situations in which a subject is merely noncompliant or passively resistant and poses no threat to the officer's or a third party's safety.
3. The use of O.C. spray should be avoided, if possible under conditions where it may affect innocent bystanders, children or other officers. O.C. spray should be used with caution in crowd control situations. In this type of situation and when practicable, O.C. spray should be utilized with the approval of a supervisor. If prior approval is not obtained, the supervisor should be notified of use of the system as soon as is practicable. Prior to deployment of the spray towards a crowd which is failing to disperse and which presents a physical threat to officers, notification should be made to the crowd advising the participants that they are committing a violation of law and that O.C. spray will be used if they fail to comply with the order to disperse.
4. A Blue Team Report must be filed whenever O.C. Spray is used against a person or as a crowd control device.
5. An officer shall decontaminate a person who has received a dose of O.C. Spray as soon as possible after the use of the spray. Decontamination should not wait until the

person is transported to jail. At times, an officer may find it impractical, for safety reasons, to decontaminate an individual at the scene of an incident. In such a case, an officer should decontaminate the person as soon as possible after the person's removal from the scene. The officer should explain in the Blue Team Report the fact that decontamination was not possible at the scene and the reason it was not possible.

6. If a person requests medical treatment after being sprayed, the officer shall make such treatment available as soon as is practicable after decontamination.

D. Pepperball System

1. The pepperball system is a less lethal system combining oleoresin capsicum and kinetic energy. The pepperball system shall be utilized only in those situations where a subject has displayed behavior and/or actions that make that person a potential danger to him/herself or others **and** the pepperball system can be safely deployed. An officer who is justified in using deadly force is not required to first consider the use of the pepperball system.
2. Only officers who have been trained in the use of the pepperball system are authorized to use this form of force.
3. Although classified as less lethal force, the potential exists for the pepperball projectiles to cause injury if they strike particularly vulnerable areas of the body. Therefore, when deploying the pepperball system, officers shall avoid intentionally targeting the following areas:
 - a. Face
 - b. Neck
 - c. Spine
 - d. Groin
4. When practicable, the pepperball system should be utilized with the approval of a supervisor. If prior approval is not obtained, the supervisor should be notified of use of the system as soon as is practicable.
5. The on-scene commander shall notify the responding officers prior to the deployment of the pepperball system.
6. Officers will decontaminate the subject who has been exposed to the pepperball system as soon as possible after the exposure. If the officer finds it impractical, for safety reasons, to decontaminate at the scene, he/she should do so as soon as possible after the person's removal from the scene. The officer shall document the reason for the delay in the Blue Team Report.
7. The pepperball system may be utilized for breaking glass. A specific glass sphere can be utilized for this purpose. The glass sphere will be kept separate from pepperballs and the glass spheres will not be used in a hopper. The use of the pepperball system for this purpose is not considered a use of force but the circumstances surrounding its use should be documented in the corresponding report.

E. Police Canine

1. The deployment of a patrol police canine shall be considered the use of less lethal force. As such, it should be used only when the use of less lethal force is justified. An officer may use only that degree of force that is reasonable to apprehend or secure a suspect or to protect the handler, another officer or a third party from the use of force against them. The SOP relating to police canines should be consulted regarding the proper procedures for deployment of a police canine.
2. The following factors are to be considered before deploying a police canine:
 - a. the severity of the crime;
 - b. whether the suspect poses a threat to the safety of the officers or others;
 - c. whether the suspect is assaultive or attempting to evade arrest for a felony (after an appropriate warning has been given), or
 - d. whether the deployment is necessary in order to effect a lawful misdemeanor arrest or prevent an escape from a lawful misdemeanor arrest **and** the person poses a significant threat to the safety of the community and/or officers if he/she escapes.
 - e. whether the deployment is appropriate and safe given the time, place and circumstances of the deployment (i.e., crowded street, children nearby, etc.).
 - f. an officer will not deploy a canine if he/she has reason to believe the fleeing person may be a juvenile, unless that person is suspected of committing a violent crime (i.e. aggravated assault, robbery, gross sexual assault, etc.)

F. Impact Projectiles

1. Only officers who have been trained in the use of impact projectiles are authorized to use this form of less lethal force. When practicable, impact projectiles should be utilized with the approval of a supervisor. If prior approval is not obtained, the supervisor should be notified of use of the system as soon as is practicable.
2. Impact projectiles must be discharged from a department-issued launcher.
3. The on-scene commander will notify responding personnel prior to the deployment of an impact projectile.
4. Impact projectiles shall be utilized only in those situations where a subject has displayed behavior and/or actions that make that person a potential danger to him/herself or others **and** the projectile can be safely deployed. An officer who is justified in using deadly force is not required to first consider the use of an impact projectile.
5. Impact projectiles shall not be used against the frail, young children or persons in control of a vehicle unless other less lethal force options have been exhausted and the person still presents a serious threat to him/herself or others.
6. When deploying an impact projectile the following parts of the body shall not be targeted:
 - a. Head
 - b. Face
 - c. Groin

- d. Neck
 - e. Mid-section of a known pregnant women.
- 7. Persons who are hit with an impact projectile will be promptly evaluated by medical personnel for possible injuries.
 - 8. The use of impact projectiles constitutes a use of force and the officer must complete a Blue Team report.

G. Officer Equipment

Radios, clipboards, and flashlights are tools designed and intended only for the use for which they are designed. This Department does not recognize these items as weapons and/or impact tools. The use of any of these items as a weapon or impact tool must be documented and justified by the officer on a Blue Team Report.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 01/15/2012	Number 1D
Subject	Use of Force & Injury Reporting	
Amendment Date	10/22/2017	

I. Purpose

To provide direction to police personnel in the methods of reporting incidents involving the use of force and to ensure that complete Blue Team reports are filed and reviewed in a timely and appropriate manner.

II. Policy

At times, officers are confronted with situations in which the use of force is necessary to affect an arrest, to protect the public or to ensure officer safety. The Department recognizes the importance of accurately reporting uses of force incidents in order to thoroughly monitor and analyze officer use of force, to manage department and officer performance and to maintain the professional reputation of the department and its individual members.

III. Definitions

Accidental discharge: the discharge of a firearm caused by an equipment malfunction.

Blue Team: A software program used for reporting use of force incidents and supervisory review of the force incident.

Deadly or Lethal Force: Physical force that a person uses with the intent of causing, or that a person knows can create a substantial risk of death or serious bodily injury. This may include the discharge of a firearm, the delivery of a strike to a subject's head with a baton or other heavy object, or the use of a neck hold.

Intentionally, knowingly or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force.

Hand control or escort techniques: Touching or the application of pressure by an officer upon a subject to turn, guide, escort, search or handcuff the person. Pressure point compliance techniques are **not** considered to be hand control or escort techniques.

Intentional discharge: The deliberate discharge of a firearm by an officer for a particular purpose.

Less-Lethal Force: Any use of force, other than deadly force, that uses physical effort to control, restrain, or overcome the resistance of another.

Negligent discharge: Any unintentional discharge of a firearm by an officer that is not due to an equipment malfunction.

Non-deadly Force: Any force that is not deadly force.

Physical Force: Physical force is the exertion of physical power by an officer against a person to compel or restrain the behavior of that person.

Reasonable Belief: For purposes of this policy, "reasonable belief" is defined as a belief based on facts and circumstances known to the officer at the time the force is used which would lead him/her to conclude that the use of force is lawful.

Serious Bodily Injury: Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery or physical health.

Use of Force: Tactics and/or techniques utilized by an officer to control or regain control of a subject in self-defense, the defense of others, or to counter resistance by a subject.

IV. Use of Force Reports (Blue Team)

- A. Whenever an officer acting in an official capacity uses deadly, less-lethal or nondeadly force against another person, the officer shall immediately call a superior officer to the scene or, if that is not practical, contact a superior officer as soon as possible following the incident. If a superior officer does not respond to the scene, that fact shall be noted in the Blue Team report.
- B. All reportable uses of force must be documented on a Blue Team report. The following are reportable uses of force:
 - 1. physical force that results in injury or death (this does not include death or injury in a traffic accident);
 - 2. the application of force by a firearm, Taser, baton, O.C. Spray, impact projectile, a pepperball, striking an individual with his/her hands, feet, knees or elbow or any other weapon or implement;
 - 3. a police canine bite of an individual; other than the canine's handler.
 - 4. transport of a person in four-point restraint
 - 5. the application of physical force as defined by SOP;
 - 6. any physical act that imposes a degree of force greater than hand control or escort techniques to overcome resistance.
 - 7. any time the Shift Commander, after consultation with the supervisor and officer using force, deems it reportable.
- C. Hand control or escort techniques (e.g., a grip on an extremity, holding a person's legs) applied for the purposes of handcuffing or escort that do not result in injury or the complaint of injury, are not reportable uses of force.
- D. Whenever an officer, on or off duty, accidentally, negligently or intentionally discharges a department-authorized firearm, a Blue Team report shall be filed. A Blue team report is not required if the intentional discharge of the firearm was for training or recreational purposes and no injury or property damage resulted. Any discharge of a privately owned firearm that results in injury or property damage requires immediate phone or in-person notification to a supervisor and a supplemental report.

- E. In all situations that require a Blue Team report, the subject must be photographed in order to document injury or lack of injury. Any and all visible injuries to a suspect or an officer, whether or not the injuries are caused by the use of force, must be photographed. Do not call in an off-duty officer to take photographs. An officer or supervisor, other than the officer who applied the force, shall be assigned to take photographs and document any relevant statements made by the subject during the photographing. The photos will be stored in the Metro Crime Lab. If a person alleges an injury, but it is not visible to the officer, photograph the area that the person claims is injured. Document the allegation and the fact that no injury was visible.
- F. All blank spaces on the Blue Team report shall be completed by the officer who has taken an action listed in paragraphs B and D, above. The officer shall make a diligent attempt to obtain all information necessary to complete the report. If information remains unknown to him/her after a diligent attempt, he/she shall mark such space "unknown." An officer who is a witness to a use of force may be required to complete a supplement and attach it to the Blue Team report. Upon completion of the report, it shall be forwarded to the immediate supervisor of the officer writing the report. The Blue Team report must be completed and forwarded to the officer's immediate superior officer by the end of the shift in which the force is used.

The immediate superior officer (normally the supervisor) of the officer completing the Blue Team report shall review the report for accuracy and detail and shall complete a supplemental report detailing his/her investigation by the end of his/her next shift. The supervisor should include his/her observations and any corrective action taken or suggested in the supervisor's supplemental report. The supervisor should not include an opinion regarding whether the force was in compliance with department policy and/or state law. Inaccurate or insufficient reports should be returned to the officer for supplementation or correction.

- G. In the case of an SRT call-out, the SRT supervisor, or his/her designee shall file an after-action report on behalf of the entire team documenting the activities of the team in detail and addressing any areas of concern related to department policy, training, equipment or tactics. Any team member that engaged in a reportable use of force during the call-out shall complete a Blue Team report. The after-action report shall be reviewed by the command staff.
- H. Uses of Force shall be investigated by a superior officer as follows:

The immediate supervisor of the involved officer will interview the officer, any other officers present at the use of force and any witnesses. The supervisor will also interview the subject on whom the force was used. These interviews must be detailed in nature and geared to determining the facts of the situation and the subject's understanding of the situation. The interviews must be recorded and then summarized by the supervisor in his/her review portion of the Blue Team report or in a supplement attached to the Blue Team report.

The supervisor shall make every effort to obtain the names, addresses, and telephone numbers of any witnesses to the use of force. The responding supervisor should additionally ensure that any injured individuals receive immediate medical attention. If treatment at a medical facility is necessary, the supervisor should ensure that the involved

officer does not transport or maintain custody of the injured individual during the medical treatment process.

If the use of force results in serious bodily injury, the Shift Commander will initiate a command notification. The Assistant Chief will notify the Internal Affairs Lieutenant who will assign an investigator to begin an immediate investigation. All uses of deadly force shall be investigated as outlined in SOP 52A.

The use of a firearm, the delivery of a hit or strike to a subject's head with a baton or other heavy object or the use of a neck hold that results in serious bodily injury will be reviewed by the department as the use of deadly force. In cases involving these types of force that do not result in serious bodily injury, the on-duty Shift Commander will arrange for command staff notification; as outlined in SOP 48.

- I. After the investigation is completed; the Shift Commander shall review the completed Blue Team report and any supplemental reports to ensure that the Blue Team report and investigation is thorough and complete. If in the Shift Commander's judgment, the officer or supervisor has not provided sufficient details regarding the incident, he/she shall return the report for further clarification. Once the Blue Team report is complete, it shall be forwarded through the command staff review process. The Blue Team report shall not accompany nor be filed with any arrest or incident report.
- J. The Internal Affairs supervisor will maintain all Use of Force reports in the Blue Team system. This will allow for the tracking and analyzing of all use of force incidents.
- K. The Use of Force Review Committee will meet monthly to review use of force incidents in detail. The committee chair will be the Internal Affairs Lieutenant. In addition, the committee will consist of the Command staff, the Internal Affairs Sergeant(s), a PBA representative, a SOA representative and the Police Attorney. The Chair shall schedule the committee meetings and provide the committee with all pertinent information covering the incident and officer(s) in question.
- L. The Command staff and the Use of Force Review Committee shall use the following criteria in reviewing use of force incidents:
 - 1. Did the officer utilize an appropriate level of force for the situation;
 - 2. Were the officer's actions reasonable;
 - 3. Did the officer use department-authorized weapon systems and tools in an appropriate manner;
 - 4. Was the force promptly reported and correctly documented;
 - 5. Was the use of force consistent with the officer's training and experience;
 - 6. Did the officer attempt to de-escalate the situation prior to the use of force (if feasible);
 - 7. Did the officer place other members of the public at risk by his/her actions;
 - 8. Did the officer's actions contribute to the necessity to use force;
 - 9. Did the use of force policy effectively address the situation;
 - 10. Was department training adequate;
 - 11. Were the use of force options available to the officer adequate to control the situation;
 - 12. Is there a pattern of misuse of this type of force, either by a particular officer or department-wide; and
 - 13. Was the use of force within Department policy?

- M. After reviewing each incident, the committee will seek to identify actions that may indicate a policy or procedure violation, a training need, a policy or procedure modification or an equipment deficiency.
- N. If the Committee does identify a problematic event it shall direct such steps to be taken as are necessary to correct the problem. This shall include, but not be limited to: ordering a written clarification of the incident; the filing of an internal complaint; ordering remedial training or counseling; recommending a change in standard operating procedure or recommending modifications to issued equipment.
- O. Each February, the committee shall review the analysis of all use of force incidents for the year as a part of the Internal Affairs Unit annual report on complaints and uses of force. The purpose of the annual review is to identify long-term patterns or trends, which may be of concern to the Department.
- P. All use of force incidents for the past calendar year will be analyzed by the Internal Affairs Lieutenant using the criteria outlined in Section IV (L). A trending analysis of force incidents for the whole organization and units within the organization will also be completed
- Q. Consistent with Maine State law and with the unions' approval, all Blue Team reports will be maintained electronically. Reports shall be maintained for seven years.

V. Reports of Injury (when no force used)

- A. Whenever an officer arrests or detains an individual and that person dies, loses consciousness, is injured or claims to be injured during the course of the arrest or detention in a manner that is unrelated to a use of force, the officer shall immediately notify supervisor. A supervisor shall immediately respond to the scene.
- B. All serious in-custody injuries require command staff notification; as outlined in SOP 48.
- C. If an incident or force report is not completed, the officer shall complete a casualty report. The supervisor shall complete a supplement and include a copy of it as part of the casualty report, which will be filed in Records.

The original supervisory supplement and a copy of the casualty report will be forwarded through the command staff review process and to the Internal Affairs Unit. The report shall not be considered a part of the Use of Force reporting process.

- D. In situations that require a casualty report due to an in-custody injury, the subject must be photographed in order to document the injury. Any and all visible injuries to a subject and the scene must be photographed. An officer or supervisor other than the officer who placed the subject in custody will be assigned to take the photographs and should document any relevant statements made by the subject during the photographing. The photos should be noted in the casualty report and filed in the Metro Crime Lab. If a person alleges an injury, but it is not visible to the officer, photograph the area that the person claims is injured. Document the allegation and the fact that no injury was visible on a report of injury.

**PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE**

	Effective Date 12/8/2013	Number 10
Subject Professional Conduct and Responsibility		
Review Date 5/6/2018		

I. Purpose

The purpose of this policy is to establish a Department standard of conduct by instituting rules and regulations for professional behavior and responsibility that represent the highest level of professionalism in law enforcement.

II. Policy

It is the policy of this department that all employees shall adhere to a standard of professional conduct that reflects our core values and mission. These standards are consistent with the proper functioning of a professional law enforcement organization and are designed to enhance the public trust and confidence in the integrity and ability of the Department and its employees to fulfill their role in the community. These rules describe expectations of behavior, conduct, integrity and professionalism, both on duty and off duty, for all police personnel whether paid or volunteer.

III. Definitions

Digital Media: Text, graphics, audio or video which exist in a format readable by computers.

Gambling: risking money or other property for gain, contingent in whole or in part upon lot, chance, or the operation of a gambling device. Internet gambling: to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made. For purposes of this policy, the purchase of State Lottery tickets is not considered gambling.

Gender Expression: an individual's external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns, and social interactions.

Gender Identity: an individual's internal sense of being male or female. Gender identity can be the same or different from one's sex assigned at birth.

Immediate family: spouse or domestic partner, child, child of domestic partner, mother, father, brother, sister, mother-in-law, father-in-law, step-parents, grandparents, or other relatives living in the same household. This includes members of a domestic partner's family similarly related.

Transgender: an individual whose gender identity is different from the sex assigned to him or her at birth. Transgender employees shall be held to the grooming standards of their chosen gender expression.

IV. Standards of Conduct

A. General conduct

1. Truthfulness

All employees of the Department are required to be truthful at all times in both speech and writing, whether or not under oath.

2. Personal behavior

Employees shall conduct their private and professional lives in such a manner as to avoid bringing themselves or the Department into disrepute, discredit or a state of embarrassment. This includes, but is not limited to, creating, accessing, or transmitting material electronically that identifies the employee as a member of the police department and brings the employee or the Department into disrepute, discredit or a state of embarrassment.

3. Associations

Employees shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are under criminal investigation, indictment, or have a reputation in the community or the Department for present involvement in criminal behavior, except as necessary to the performance of official duties or where it is unavoidable because of an immediate family relationship.

Employees shall avoid membership or affiliation with any group that advocates and/or practices hatred, hostility, or violence towards members of a race, ethnicity, nation, religion, gender, gender identity, sexual orientation or any other designated sector of society; if said membership would degrade or bring disrespect upon the employee or the Department and be adverse to the stated policies, goals, rules, orders and/or directives of the Department.

4. Rumor

Employees of the Department shall refrain from participating in the receipt or transmission of rumors of a personal, professional, sensational or intimate nature.

5. Rewards

No employee of the Department shall accept any gift, reward, fee or payment as the result of any service rendered in the line of duty to the community or any person.

6. Compensation

No employee of the Department shall seek, solicit or bring suit for, nor shall one accept from any person or agency, money or other compensation for damages and/or expenses incurred in the line of duty, or for which compensation in the form of pay or other remuneration has already been received, without prior notification to the Chief of Police and, ultimately, the Director of Human Resources in writing.

7. Discussion of evidence

No employee of the Department shall discuss with legal counsel or counsel's representatives the particulars of, or the evidence pertaining to, an official proceeding being conducted by the Department, except in the presence of, or with the prior knowledge of the Chief of Police or his/her designee. This restriction shall not apply to the necessary discussions held with attorneys representing the people of the State of Maine in their official capacity or to an attorney representing an employee as his/her legal counsel.

8. Divulging police information
No employee of the Department receiving information as a consequence of his/her official position shall make such information available to anyone except as permitted by law or competent authority. Employees shall not communicate information of an official or confidential nature to anyone except to those for whom it is intended, or as directed by the Chief of Police, or under due process of law.
9. Memberships and organizations
No employee of the Department shall join or continue membership in any organization or society whose object or purpose, either directly or indirectly, is or becomes detrimental to the strict observance and respect for the law. Nor shall any employee knowingly affiliate with a subversive organization except in the line of duty and with the knowledge and consent of the Chief of Police.
10. Speeches, statements, releases
No employee of the Department shall address a public gathering, make a public statement or release for public statement or release for publication any written material, photographs, or digital media concerning the operation or administration of the Department, unless authorized to do so by appropriate authority. Any story, speech, address, statement or article relating to the work, activities or policies, or pertaining to any employee of the Department must receive the approval of the Chief of Police prior to its being delivered or disseminated. This does not apply to testimony as required by law or statements made in connection with legitimate City employee union activity.
11. Correspondence and letterhead
Employees of the Department shall not use Department letterhead for unofficial or personal correspondence, without the permission of the Chief of Police or a member of the command staff.
12. Department Affiliation
Except as authorized by the Chief of Police, no employee shall use a personal business card, webpage, website, web blog or letterhead that indicates his/her Department affiliation.
13. Expenditure of Department funds
No employee of the Department shall make any expenditure or incur any obligation on behalf of the Department without the knowledge and permission of competent authority. This pertains to articles or supplies that may be purchased and work which may be ordered in the name of the Department or City.
14. Telephone calls
Employees of the Department are not permitted to make long distance telephone calls or accept collect telephone calls via Department facilities unless such calls are work-related. Department cellular telephones are intended for official use; therefore employees may be held financially responsible for personal calls placed through the Department's account if such usage is deemed unreasonable.
15. Firearms permit/Private Investigator License
Employees of the Department are prohibited from acting as a character reference for persons seeking to obtain a concealed firearms permit or private investigator's license.

16. Possession of alcoholic beverages or other intoxicants
No employee of the Department shall possess an alcoholic beverage, or other intoxicant within the confines of department work spaces (i.e., buildings, offices) or in any Department vehicle, except that which has been seized as evidence, contraband or found property.
17. Use of alcoholic beverages or other intoxicants
Employees of the Department, unless with supervisory permission in the performance of duty, shall neither consume nor purchase any alcoholic beverage while on duty. Under no circumstances shall an employee partake of an alcoholic beverage in public view while attired in uniform or any part thereof. Alcoholic beverages, or other intoxicants, shall not be consumed off duty to the extent that their use is detectable when an employee reports for a regularly scheduled duty assignment.
18. Use of medication
The use of any medication by an employee, prescribed or non-prescribed, which may result in an altering of mental or physical capacities or affect the ability to perform required duties, shall be immediately reported to a supervisor. No employee rendered incapable of performing required duties due to the effects of such medication will be allowed to report or remain on duty.
19. Use of tobacco and/or Vaping
An employee of the Department shall neither smoke, chew tobacco, nor vape while conducting Department business with the public. Tobacco may be smoked or chewed on duty provided one is not in general view of the public and no smoking restrictions exist at the chosen location. Smoking, chewing tobacco and vaping are prohibited in Department-owned vehicles, within police headquarters, and within any and all police sub-stations.
20. Property and equipment
Each employee of the Department shall be held responsible for the proper care and use of Department property and equipment assigned to or used by them. No employee shall alter, mark, deface or tamper with any City property or any authorized personal equipment without supervisory approval. Department property shall not be sold, given away or lent for use to anyone without the approval of competent authority. Department equipment shall not be used for personal projects or non-department needs without prior permission from competent authority. Any damage to or loss of property shall immediately be reported to one's supervisor and documented on a supplemental report. Employees accepting locker assignments acknowledge the right of the Department to inspect said locker at any time in the presence of the employee or union representative. Employees shall surrender all Department-issued equipment and items at separation or when ordered to do so by the Chief of Police.
21. Recovered property
Employees are required to take responsible measures to ensure the security of personal property coming under their control when such property is rendered unsecured or unprotected as a result of a police action. All property found, confiscated or recovered will be appropriately labeled and placed into the property system as soon as possible and before the end of that shift.
22. Control of property belonging to accident victims
Officers responding to accidents scenes have a responsibility to help safeguard victim's personal belongings, consistent with the priorities of other duties. This responsibility is heightened when the victim is deceased or incapacitated by injury. Officers will be alert

to pilferage and theft problems that could occur at scenes. Officers will retrieve and safeguard personal property until such time as it may be submitted to the Department's property system. When releasing personal property at the scene of an accident, the officer shall ensure that the name and contact information of the person receiving the property is recorded in the appropriate report.

23. Official title

An employee of the Department, in the performance of duty, shall use the official title of his/her position or rank when acting in an official capacity. Abbreviations for rank are acceptable. Employees are prohibited at all times from misrepresenting their position, function, or rank.

24. Witness

No employee of the Department shall testify as a character witness at any trial or hearing, for either the accused or complainant, without the approval of the Chief of Police. Any employee who is subpoenaed to testify, expects to be called to testify, is requested to testify, or who otherwise intends to testify on behalf of a defendant, against any governmental agency, shall notify his/her Shift Commander as soon as possible prior to the giving of such testimony. If the governmental agency is the City of Portland or any subdivision thereof, the Chief of Police and the Police Attorney must be immediately advised.

25. Security

It shall be the responsibility of every Department employee to maintain the security of Police Headquarters and other Department structures and vehicles. When accessing secure areas, or upon leaving secure areas and vehicles unattended, employees are required to properly close and lock the access way to such areas or vehicles. No employee shall duplicate Department keys without proper authorization. All keys must be issued by appropriate authority and shall not be passed from employee to employee without proper authorization.

26. Physical condition

Department employees are required to maintain a level of physical fitness that will enable one to safely and satisfactorily perform all assignments.

27. Availability

Sworn officers and dispatch employees occupy positions designated by the City as "essential personnel." These are employees who are subject to callback or call-in to respond to urgent public safety needs. They are considered to be always "available for duty" and may be ordered by the Chief of Police or his/her designee to report for duty at any time to respond to emergency public safety situations or incidents.

28. License Status

Employees of the Department may not drive a City vehicle or their own vehicle on City business, without a valid Maine Driver's License. An employee whose Driver's License is expired, revoked or suspended for any reason must immediately notify his/her supervisor, in writing. The supervisor shall notify the command staff and a determination will be made whether the employee will be relieved from duty as a result of his/her license status change.

29. Personal Status

Employees must maintain a telephone and shall report any changes in phone number, residence and dependent or marital status to the appropriate Department authority within one working day of such change. All personal information is considered confidential.

30. National colors, pledge of allegiance, taps and anthem
Employees in uniform and wearing a hat will render a hand salute to the national colors, the pledge, the playing of taps and the national anthem at appropriate times.
Nonuniformed personnel shall place the right hand over the heart at appropriate times.
31. Collective bargaining
Employees of the Department are not restricted from participation in the activities of those unions or associations that legitimately represent them provided such activities are lawful and not prohibited by Standard Operating Procedures.
32. Recording
An employee may not record the conversation or activities of another employee using audio or video recording equipment without that employee's knowledge. This prohibition does not apply to recordings made in conjunction with authorized investigations or the recording of an employee for departmental purposes (i.e., dispatch, interview rooms, and body worn cameras).
33. Firearms
Before any officer is allowed to carry a non-issued firearm and ammunition either on duty, or off duty for a police action, he/she must get the approval from the Chief of Police.

B. Conduct on duty

1. General responsibility
While on duty, employees shall at all times take appropriate action to protect life and property; aid the injured; preserve the peace; prevent crime; detect and arrest violators of the law; and enforce Federal, State and local laws and ordinances according to Department policy.
2. Response
Every employee of the Department shall immediately respond as directed on notice from competent authority that his/her services are required.
3. Reporting for duty
Employees of the Department are required to report for duty physically, mentally and emotionally fit. If, for any reason, a supervisor believes an employee to be unfit for duty, the supervisor may relieve the employee from duty. Employees of the Department shall report for duty, properly attired and equipped, at the time and place specified by their assignment. An employee shall complete the number of hours on duty required by the assignment. An assignment is not complete until an employee is properly relieved by a qualified employee and has performed all required tasks or is relieved by competent authority.
4. Absence from duty
An employee of the Department shall not be absent from duty without notifying an on-duty supervisor of the reason for his/her absence. Prior permission must be obtained for an absence that is not of an emergency nature. An absence due to illness must be reported as soon as it becomes apparent that illness precludes the employee from reporting for his/her next assigned shift or completing his/her current shift.

5. Proper action required

On-duty officers must take proper police action whenever it is required. Assignment of an officer to a special detail or specific unit does not relieve one of the responsibility to take necessary and proper police action even though such action may be outside the scope of one's assignment. An exception to this rule may occur when an officer is performing an undercover assignment and revelation of his/her official position would jeopardize such assignment. However, the officer must evaluate such situations and take police action if necessary. Under no circumstance is an employee to engage in covert investigations or undercover activities without the prior approval of an appropriate supervisor.

Off-duty officers may not conduct follow-up investigations, visit or contact victims or witnesses or collect case-related evidence.

6. Cooperation and coordination

All officers are required to take appropriate police action whenever any law enforcement officer is in need of assistance. Employees of the Department shall maintain a high degree of cooperation with one another and shall seek to coordinate their activities in order to maintain a continuity of purpose and obtain maximum success through teamwork. Employees shall maintain this same level of cooperation in their dealings with all other agencies in meeting mutual goals.

7. Information on assignments

An employee of the Department who is in doubt as to the nature of or details concerning an assignment shall immediately seek clarification from the appropriate supervisor via the chain of command.

8. Area of assignment

No employee shall leave his/her assigned duty post or geographical area of assignment unless dispatched to do so or authorized to do so by a supervisor or in the performance of a legitimate police action. No on-duty employee shall leave the City limits except when engaged in official business, authorized to do so by a supervisor or in the performance of a legitimate police action.

9. Identification as a Police Officer

Officers shall identify themselves by displaying the official badge and identification card before taking police action; except when it is impractical or where an officer's identity is obvious. Upon request, officers are required to supply their name and badge number in a courteous manner.

10. Conduct toward the public

Employees of the Department shall be courteous and professional in their dealings with the public and shall not exhibit any bias, prejudice or discrimination against any person. They shall perform their duties, avoiding harsh, violent, profane or insolent language, and shall respond professionally regardless of provocation to do otherwise. Employees are expected to use good judgment and a standard of reasonableness in their conduct toward the public and use pronouns that are consistent with an individual's gender expression or preference. Officers will not frisk or search any person for the sole purpose of determining the person's gender. During a standard search, every attempt will be made to have the search conducted by an officer of the same gender as the person's gender or gender expression. If a search is required for other reasons, officers should ask the individual if they prefer the search to be done by a male or female officer. All employees are required to provide their name and position upon request.

11. Impartial attitude

Employees shall treat all persons with dignity and respect. Employees shall not exhibit partiality for or against any person because of that person's race, creed, sex, sexual preference, gender expression, influence in the community, political orientation or socio-economic status. Employees shall not interfere in the private business of others when not in the interest of legitimate police concerns.

12. Assistance to citizens

Employees of the Department shall render all possible service to citizens in accordance with established policies and procedures. They shall attend to requests from the public quickly and accurately, avoiding unnecessary referral to other parts of the Department. Employees shall ensure access to emergency medical attention, emergency shelter or other emergency social service for those in legitimate need. Employees shall handle incapacitated persons consistent with proper conduct toward the public.

13. Availability when on duty

Employees of the Department who are on duty shall be readily available to the public and shall not conceal themselves except for some police purpose. Employees shall be immediately and readily available during duty hours within the context of their assignment. No employee assigned to respond to calls for service shall fail to respond to a radio call directed to him/her unless circumstances make a response impossible. Such employees must keep the dispatcher informed of their location and activity. Employees not directly responsible for calls for service shall be reasonably available and shall keep their supervisor informed of their activities.

14. Loitering on duty

Employees of the Department, while on duty, shall not loiter about or congregate in any tavern, theater, restaurant or other public or private place unless in the performance of police business.

15. Sleeping on duty

No employee of the Department shall sleep on duty except as authorized by formal agreement.

16. Personal business on duty

Employees of the Department shall not conduct private or personal business while on duty. Employees shall not devote duty time to the pursuit of any recreational activity, private or personal business or enterprise unless authorized to do so by a supervisor.

17. Gambling on duty

Employees of the Department shall not gamble while on duty or while attired in uniform or any part thereof, unless with supervisory approval to further a police purpose. Employees shall not engage or participate in any form of illegal gambling at any time.

18. Usage of non-work-related media on duty

Employees shall not read, listen to or view any non-work-related book, magazine, newspaper, video or audio material except as may be required in the performance of duty or during meal/break periods and other times considered reasonable by a supervisor.

19. Conduct toward supervisors, subordinates and associates

All employees shall treat superior officers, subordinate officers, associates and civilian employees with respect. They shall be courteous and civil at all times in their relationships with one another. When on duty and particularly in the presence of the public, officers will be referred to by rank.

20. Legal Process

Employees of the Department are expected to make every effort to serve promptly, any and all warrants, summonses, orders or other documents assigned to them for service.

21. Proper procedure

Employees of the Department shall adhere to current standard operating procedures in the performance of their duties except under circumstances which require an unavoidable change or when so directed by a supervisor.

22. Court attendance

Employees of the Department, when properly notified to appear before any judicial hearing or investigative body authorized to take testimony, shall attend punctually, and in uniform or other appropriate attire. Employees shall not fail to attend such hearings without prior notice to the proper authority of a valid reason why attendance is not possible. Employees shall not refuse to testify at such hearings unless the Chief of Police grants express permission for such action.

23. Proper Documentation and Reporting

All official activity requiring documentation shall be properly documented in the appropriate format (electronic, paper, etc) and submitted in a timely manner. All such reporting must be accurate, complete, and meet accepted professional standards. Reports submitted by employees shall be truthful and complete. No employee should knowingly enter or cause to be entered any inaccurate, false, or improper information.

C. Use of official position

1. Use of badge or position for personal gain

Employees of the Department shall not, at any time, use or attempt to use their official position, badge, credentials or identification in order to obtain a personal or financial gain or advantage for themselves or for another.

2. Commercial testimonials

Employees shall not permit their name or photograph to be used to endorse any product or service that is in any way connected with law enforcement without the permission of the Chief of Police. Neither shall one allow his/her name or photograph to be used in any commercial testimonial that alludes to his/her position or employment with the Department without the permission of the Chief of Police.

3. Acceptance of gifts or gratuities

Employees of the Department shall not solicit nor accept any gift, gratuity, loan, fee, meal or other thing of value, the acceptance of which may be perceived as influencing the action of said employee or any other employee, directly or indirectly, in any police matter.

4. Other transactions

Employees are prohibited from buying or selling anything of value from or to any complainant, suspect, witness, defendant, prisoner or other person involved in any matter which has come to their attention or which arose out of their Department employment except as may be specifically authorized by the Chief of Police.

5. Conflicts of interest

Employees of the Department are prohibited from engaging in any business or personal financial activities with persons or businesses which benefit financially from their

relationship with the Department, provided the employee has the ability to, directly or indirectly, influence transactions between the person or business and the Department.

6. Recommendation of private enterprise

Employees of the Department shall not, in their official capacity, recommend the use or nonuse of any private business, product or service to the public except as may be required to direct individuals to the type of business, product or service they are seeking.

7. Recommendation of legal counsel

An employee of the Department shall not solicit, suggest, recommend, advise or counsel the engagement, retention or discharge of a specific attorney or law firm for the purpose of rendering legal aid or assistance to any person seeking such assistance as the result of a police matter. This prohibition shall be deemed not to apply to employees themselves or to their families.

8. Political activity

While in uniform and/or identifiable as a law enforcement officer or a police department employee, employees are not to work at the polls, circulate campaign literature for elective officials, nor be in any way, concerned with soliciting or receiving subscription, contributions or political service from any person on behalf of any candidate for elective office.

While employed by the City, employees may seek or accept nomination or election to any non-partisan office in municipal government (i.e., City or School office), however, in connection with an employee's campaign, no employee will use City facilities, equipment, materials or supplies to advocate for his or her candidacy, or discuss the employee's campaign with city or school personnel during the workday, or use any time during the work day for campaigning purposes.

At no time may an employee use his or her City position, nor use City facilities, equipment, materials or supplies to communicate, organize, assist or advocate for or against any candidate for elected office, including but not limited to his or her own candidacy, whether for a local, state or federal office, and whether the employee is on or off duty at the time of such use. While employed by the City, employees are to refrain from using their influence publicly for or against any candidate for municipal elective office. City employees are not to circulate campaign literature for elective city officials, nor be in any way concerned with soliciting or receiving subscriptions, contributions, or political service from any person on behalf of any candidate for municipal elective office. Nothing in this paragraph shall be construed to apply to an employee who is seeking any office in municipal government while that employee is working on his or her campaign, subject to the limitation in the paragraphs above.

This rule is not to be construed to prevent any City employees from becoming, or continuing to be, members of any political organization, from attending political meetings, or from voting with complete freedom in any election.

Employees who are working directly or indirectly under a federal funding status must check with the Office of Personnel Management as to the extent to which participation in State or Federal political activities is allowed under Federal rules, laws or statutes.

9. Civil matters

No employee of the Department shall use the influence of his/her office in, or provide assistance to the pursuit of a matter that is strictly private and civil in nature, except in the performance of his/her assigned duties or where a breach of the peace has occurred or is imminent.

10. Civil action

Employees will notify the Chief of Police or his/her designee when requested to testify or subpoenaed in civil cases, when such testimony is as a result of one's association with the Department. Employees shall confer with the Chief of Police or his/her designee before giving interviews, a deposition or an affidavit in a civil case which arose as a result of the employee's association with the Department.

11. Potential Liability

In all instances where any person is injured or any property is damaged in connection with the actions of on-duty employees, a supervisor shall be notified as soon as possible and any required reports and/or photos shall be completed.

12. Public appearance requests

All requests for public speeches, legislative testimony and other public activities to be performed by employees of the Department in their official capacity must be approved by the Chief of Police or the appropriate supervisor if the request is considered routine.

13. Personal preferment or advantage

No employee may seek the influence or intervention of any person for purposes of personal preferment, advantage, transfer or advancement. No employee shall use information gained as a result of his/her official position toward obtaining any personal benefit or advantage.

14. Security of Department business

Employees of the Department shall not reveal police information except as provided for by law, standard operating procedure or as authorized by appropriate authority. Employees shall make no revelation nor take any action which would compromise confidential information, obstruct the legal process or aid any person, in any way, who has been arrested, summoned, is suspected or known to have engaged in or be planning any illegal conduct.

15. Business address

Employees of the Department shall not use the Department as a mailing address for private purposes.

16. Forwarding communications

Any employee receiving any communication for transmission to a higher authority shall in every case forward such communication without delay.

17. Free admission

An employee of the Department shall not solicit free admission to any function for oneself or for another, except in the line of duty.

18. Liquor establishments

Employees of the Department shall not own, operate, have a direct financial interest in or be in any way connected with the management of any place of business in the City of Portland in which alcoholic beverages are sold or served for on-site consumption where such sales are the primary purpose of the business.

19. Altering information

No employee of the Department shall alter or withdraw any official report, record or communication, whether written or electronic, which is being sent through the proper channels, without the approval of an appropriate supervisor. Additions or corrections to

reports already submitted shall only be accomplished through the submission of additional reports.

20. False information

No employee of the Department shall knowingly make or submit any type of official communication or enter or cause to be entered in an official record, any false, inaccurate or improper information. No employee shall take police action based on information that is known by the employee to be false or inaccurate.

D. Orders and discipline

1. Required Conduct

Employees of the Department shall not commit any act or omission that constitutes a violation of any of the rules, regulations, procedures, orders or policies of the Department.

All employees are obligated to maintain knowledge of all current rules, regulations, procedures and policies which pertain to their position or the performance of their duty once such material has been properly disseminated to them.

2. Obedience to law

All employees of the Department shall obey the laws of the United States, the State of Maine, and the laws of any state and local jurisdiction in which the employee is present.

3. Recognition of authority

All employees of the Department are subject to the appropriate exercise of command authority as provided for in the rank structure, chain of command and standard operating procedure.

4. Orders

Orders from a supervisor to a subordinate shall be in clear, understandable language; civil in tone and issued in conjunction with Departmental business. No command or supervisory officer shall knowingly issue any order that is in violation of any law, ordinance or Department policy unless exigent circumstances require such an order. (An example of this is when a road must be closed for emergency purposes and it is not feasible to request permission from the State as is required by law.) If an employee receives conflicting orders he/she shall, if possible, inform the superior issuing the most recent order of the conflict and request a resolution. If no resolution is offered, the employee must obey the most recent order and will not be held responsible for failure to obey or complete the previous order. Employees who are given orders which they feel to be contrary to Department policy, as opposed to unlawful, must obey the order to the best of their ability and then appeal as provided below. No employee is required to obey any order that is contrary to any law or ordinance. An employee receiving an unlawful, or improper order shall, at first opportunity, complete a report to the Chief through the appropriate Division Commander. This report shall contain the facts of the incident and the action taken.

5. Insubordination

Employees shall promptly obey all lawful orders (written or verbal) given by a superior officer. Any directive given by a superior officer is deemed to be an order. The failure or refusal of an employee to obey such orders is insubordination and is prohibited. Orders from a superior are to be obeyed even if the order is relayed by an employee of equal or lesser rank. Ridiculing the authority of a superior officer (supervisor) by displaying obvious disrespect or by disputing his/her orders shall also be deemed insubordination.

6. Radio operations
All employees of the Department shall strictly observe radio operation regulations as set forth by the Federal Communications Commission and the Department. Confidential police information shall not be communicated via radio except as may be required in an emergency.
7. Collective bargaining agreements
All employees of the Department are expected to comply with those rules and procedures that are mandated under the appropriate collective bargaining agreements.
8. Civil Service Commission
Employees of the Department shall be subject to the authority of the Civil Service Commission to the extent so empowered by law.
9. Certification or Licensing
Any employee, whose assignment requires licensing or certification, is responsible for maintaining that licensing or certification.
10. Unsatisfactory performance
Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. They shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the employee's rank, grade, or position; and the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 09/23/2012	Number 35
Subject	Performance Evaluations	
Amendment Date	12/08/2013	

I. Purpose

The purpose of this policy is to explain the department's performance evaluation system and delineate the procedures for administering the evaluation process. The performance evaluation system is intended to (1) provide an objective and fair means for measurement, improvement and recognition of individual performance in accordance with prescribed guidelines; (2) promote fair and impartial personnel and promotional decisions and (3) identify training needs.

II. Policy

It is the policy of the Portland Police Department to periodically evaluate the performance of employees in a fair and impartial manner.

III. Definitions

- A. Officer: Unless otherwise specified, "officer" refers to any officer, regardless of rank, that is being rated.
- B. Performance Evaluation Report: Although performance evaluation is a continuous process, formal documentation of an officer's performance occurs twice per year.
- C. Probationary Officer: Any officer that is still in his/her probationary period (usually the first two years).
- D. Rating Officer: The supervisor to whom the officer reports directly for duty or assignments.
- E. Reviewing Officer: The officer next in the chain of command or supervision above the rating officer.

IV. Evaluation of Sworn Personnel

A. Responsibilities

Performance evaluation is a command and supervisory responsibility and must be performed continuously through daily observation, examination and review. An officer's immediate supervisor is responsible for his/her evaluation. As part of the evaluation process, team supervisors will meet periodically to discuss team goals and the best means to facilitate the effective evaluation of employees.

1. Rating officer

The rating officer will use all the information at his/her disposal to complete a fair and accurate evaluation of the officer's performance. The rating officer's responsibilities are to:

- a. Make him/herself thoroughly familiar with the job description(s) of the position(s) to be rated.
- b. Observe on a daily basis the performance and behaviors of the officers assigned to his/her unit.
- c. Bring performance or behavior that does not meet department expectations to the attention of the officer and make note of that in the performance evaluation software.
- d. Use only the observations of performance that occurred during the rating period and defined in the evaluation report. Throughout the evaluation period, the rating officer will make notes regarding an officer's performance, document any perceived training needs and record recommendations for awards and commendations in the notes section of the performance evaluation software. These notes shall be reviewed prior to the completion of an officer's six month progress report and annual evaluation.
- e. Confer with the officer's previous supervisor before the evaluation is completed, if an officer has worked for more than one supervisor over the course of a rating period.
- f. Conduct a review of the in-service training the officer received during the year.
- g. Conduct a review of the officer's sick leave usage.

- h. Complete the progress report or the annual evaluation in accordance with this directive.
- i. Conduct a performance evaluation interview with the officer after the evaluation has been completed and approved for distribution.
- j. Allow the officer to comment on the evaluation before requiring the officer to electronically sign it. The rating officer will then present the officer with a copy of the evaluation.
- k. Discuss with the officers career opportunities, goals and future training needs.

2. Reviewing officer

The rating officer's observations of an officer's performance will be the primary measurement of how well the officer is progressing; however, the reviewing officer also plays a key role in the evaluation process.

The responsibilities of the reviewing officer are to:

- a. Meet with each new officer that is assigned to his/her section and discuss in detail the officer's new job description.
- b. Make it clear to the officer what level of performance is expected in his/her new assignment.
- c. Review with the officer the performance evaluation process, documents, and rating criteria.
- d. Observe the performance and behaviors of the officers assigned to his/her section.
- e. Review each completed evaluation to ensure fairness, accuracy, completeness and consistency.

IV. **Preparation of the Evaluation Forms**

A. Progress Reports

Progress reports are an important part of the performance evaluation process. They are used by the rating officer to assess an officer's performance during the evaluation year. The following procedures are to be followed to ensure prompt and consistent administration of the evaluation system.

B. Probationary Officers

- 1. After completion of field training, each probationary officer will receive a biannual progress report in April and October, utilizing the same form as the six-month progress report.
- 2. Factors to be considered and noted in the report shall include, but not be limited to, the categories in the annual performance evaluation and the officer's initiative, pro-activity, overall progress and training.
- 3. The biannual progress report is forwarded to the officer's reviewing officer who will read it and sign it before the officer receives the results.
- 4. The report is then forwarded to the Major for review prior to distribution to the officer.
- 5. The rating officer will schedule an interview with the officer to discuss the report.
 - a. Goals will be created to enhance the growth and development of the officer.
 - b. The officer may write any comments regarding the report before electronically signing it.
- 6. The biannual progress report will be electronically stored and be utilized as supporting documentation for the annual evaluation.

C. Six-month Progress Reports

- 1. Each officer receives a six-month progress report in July.
- 2. Factors to be considered and noted in the report shall include, but not be limited to, the categories in the annual performance evaluation and the officer's initiative, pro-activity and training.
- 3. The six month progress report is forwarded to the officer's reviewing officer will read it and sign it before the officer receives the results.
- 4. The report is then forwarded as follows for review prior to distribution to the officer:

- a. Patrol Officers are forwarded to the Major.
- b. Evidence Technicians and Detectives are forwarded to the CID Lieutenant.
- c. Patrol Sergeants are forwarded to the Major.
- d. Patrol Lieutenants are forwarded to the Commander.
- e. Detective Sergeants are forward to the Assistant Chief.
5. The rating officer will schedule a performance evaluation interview with the officer to discuss the report.
 - a. Goals will be created to enhance the growth and development of the officer.
 - b. The officer may write any comments regarding the report before electronically signing it.
6. The six month progress report will be electronically stored and be utilized as supporting documentation for the annual evaluation.

D. Annual Evaluations

The following procedures are to be followed to ensure prompt and consistent administration of the annual evaluation system:

1. Each officer is evaluated annually at the conclusion of the calendar year.
2. The Planning and Research Coordinator will ensure that the evaluation process is set up and available to supervisors by December 1.
3. Raters will complete the evaluation forms in accordance with the instructions below. If an officer has not been assigned to the rater for the entire evaluation period, the rater shall consult with the officer's previous supervisors to ensure that the evaluation accurately reflects performance throughout the period.
4. Raters will transmit completed evaluations to the Reviewer.
5. The Reviewer will review each evaluation for accuracy and content, taking special care to ensure that each rating is properly substantiated in the comment section. Upon completion, the Reviewer will transmit the evaluations to the appropriate level in the chain of command.
6. Evaluations will be returned to the raters for finalization and dissemination to officers. The Rater meet with each assigned officer to discuss the officer's performance, career development and goal-setting. Officers are encouraged to include comments regarding the evaluation. If the officer disagrees with the evaluation, he/she may appeal to the Commander or Assistant Chief, as appropriate, utilizing the procedure below.
7. Access to numerical scores will be limited to the Chief, Assistant Chief and Commander until the annual evaluation process is complete. Upon completion of the evaluation process, officers may obtain their weighted scores from the PAO/Personnel if they so desire.

E. Performance Categories, Ratings and Scores

1. Officers and supervisors will be evaluated in ten performance categories. Each category is defined and further amplified by corresponding performance traits. Evaluators must consider each performance trait when rating performance.
2. Raters shall select one of the following ratings to evaluate performance:

Outstanding: The officer consistently demonstrates exemplary performance in each performance trait. Performance is exceptional in all areas and is recognizable as being far superior to others.

Exceeds Expectations: The performance consistently meets and regularly exceeds requirements or standards. The officer's motivation and performance significantly contributes to the Department.

Meets Expectations: The performance consistently meets requirements or standards. The officer's efforts and accomplishments are of the quality that is expected. This rating acknowledges that the officer makes a solid, positive contribution to the Department.

Needs Improvement: The performance does not fully meet work requirements or standards or the officer's performance is inconsistent. The officer must improve efforts to meet work standards.

Unsatisfactory: The performance is consistently below work requirements or standards. The officer has not responded to training or counseling.

3. When identifying the appropriate rating, Raters should consider the following:
 - a. Each category is discreet and only performance within that category shall be used to determine the rating. Job assignment is irrelevant in the rating determination.
 - b. The rating norm is “Meets Expectations.” An officer who performs consistent with contemporary law enforcement standards and in accordance with Department Standard Operating Procedures should receive a rating of “Meets Expectations.” Performance must clearly exceed the norm to receive a higher rating. The Rater must provide factual examples of those times when the officer’s performance exceeded the norm.
4. Evaluators must clearly and specifically substantiate the assigned rating in the comments section following each category. Any rating below “Meets Expectations” should include goal-setting and remedies (e.g. recommended training) to improve performance.
5. Any officer absent from duty on non-disciplinary leave for more than 75% of a calendar year will receive a “not-observed” performance evaluation for that year. This non-scored evaluation will be issued in lieu of a standard performance evaluation. In accordance with the Civil Service Ordinance, the officer’s last scored evaluation will be used to create the eligible list for promotional appointment.
6. Scoring
The scoring of the performance evaluation will be accomplished as follows:
 - a. Ratings within each category are assigned weighted scores as shown in paragraphs b and c below. Total scores are determined by adding the weighted scores from each of the ten categories. The maximum possible score is 100; the minimum possible score is 20.

Officer Evaluation scoring:

	Unsat	Needs Improvement	Meets Expectations	Exceeds Expectations	Outstanding
Job Knowledge	2	4	6	8	10
Oral Communications	2	4	6	8	10
Written Communications	2	4	6	8	10
Initiative	3	6	9	12	15
Decision-Making	3	6	9	12	15
Professionalism	4	8	12	16	20
Leadership Potential	4	8	12	16	20

Supervisor Evaluation scoring:

	Unsat	Needs Improvement	Meets Expectations	Exceeds Expectations	Outstanding
Oral Communications	1	2	3	4	5
Written Communications	1	2	3	4	5
Performance Rater or Job Effectiveness	1	2	3	4	5
Initiative	2	4	6	8	10
Decision-Making	3	6	9	12	15
Management Ability	3	6	9	12	15
Professionalism	4	8	12	16	20
Leadership Ability	5	10	15	20	25

- b. Supervisors who do not conduct performance ratings as part of their duties will be rated on Job effectiveness rather than Performance Rater. The weighting will be the same as that of

“Performance Rater.”

- c. Scores are calculated automatically by the evaluation software.

V. Appeal Process

If an officer has received an evaluation in which he/she believes the process as outlined in this directive was not adhered to, or the ratings that were given were not adequately justified by the rating officer, that officer may:

- A. Appeal the evaluation to the Commander or Assistant Chief of Police, as appropriate.
- B. The appeal must be in writing and be very specific as to what part of this directive was not followed and/or why he/she feels the ratings were unjustified. An appeal must be initiated within **30** days from the date the officer receives the evaluation. At the expiration of the thirty (30) day period, the right to appeal is considered waived.
- C. The Commander or the Assistant Chief, as appropriate, will review all material related to the appeal, meet with the affected officer and determine if the officer's concerns are valid. The Commander or Assistant Chief can either let the evaluation stand as is, or return it to the rating officer for change or clarification. In either event, he/she must inform the officer, in writing, of the decision within two weeks of receiving the appeal.
- D. If the evaluation is returned to the rating officer for change or clarification, the rating officer must make the revision and forward the evaluation to the Commander or Assistant Chief, as appropriate, within **seven days**.
- E. Provided the change or clarification is acceptable to the Commander or the Assistant Chief, the reviewer and the rating officer will meet with the officer involved and present the revised evaluation. This will occur as soon as possible following the completion of the appeals process.

VI. Procedure for Non-Sworn Personnel

The formats of the performance evaluations for non-sworn and non-union positions are approved by the Director of Human Resources in accordance with the City's personnel policy and the applicable collective bargaining agreement. The appeal process for non-sworn personnel shall be as stated in the employee's collective bargaining agreement or, if no appeals process is stated, as is outlined above.

VII. Utilization of Performance Evaluations

- A. The annual evaluations of sworn personnel will be kept on file electronically. All others will be filed in the employee's personnel file. Evaluations and personnel files may be accessed by supervisors with the approval of the Division Head. Material in personnel files should not be copied (except for copies prepared for the employee).
- B. Evaluations may be utilized as follows to:
 - 1. Determine the suitability of a new assignment for a particular individual.
 - 2. Identify training needs of an employee.
 - 3. Assist in deciding whether an employee is ready for additional responsibilities.
 - 4. Assess the effectiveness of an employee in his/her current assignment.
 - 5. Promote within the guidelines of the Civil Service Ordinance or the applicable collective bargaining agreements or policies.

VIII. Training

The Training Sergeant has the responsibility of training each new supervisor in the Portland Police Department's performance evaluation system. At a minimum, this training will encompass the following topic areas:

- A. The department's performance evaluation documents and associated SOPs.
- B. Instructions on completing evaluations using the evaluation software.
- C. How to assess performance and behaviors.
- D. The performance evaluation interview.

**PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE**

	Effective Date 09/23/2012	Number 36
Subject	Performance Management	
Review		

I. Purpose

This policy sets out the procedures and responsibilities for managing employee work performance.

II. Policy

Law enforcement supervisors have two primary responsibilities in developing productive, well-disciplined employees: rewarding good work and correcting poor performance. Direct supervisors have the best opportunity to observe the performance, conduct and appearance of employees on a day to day basis and to identify those instances when praise, corrective action, remedial training or a Job Improvement Plan may be warranted. The intent of this policy is to provide supervisors with guidelines to perform their assigned duties in an effective and efficient manner. Employees need positive feedback that reinforces successful performance and corrective feedback that communicates that their performance does not meet department standards. Effective performance management will enhance the productivity, morale and success of the organization.

III. Supervisory Oversight Responsibilities

A. Daily Direction

1. The daily process of supervision that occurs between the employee and his/her supervisor is an ongoing and usually undocumented practice. It reflects the day-to-day interaction between the supervisor and the employee. It typically consists of:
 - a. providing necessary direction, clarification, explanation or instruction;
 - b. debriefing employees after significant incidents, conducting administrative reviews and discussing performance concerns;
 - c. dissemination of new information or policies or procedures; and
 - d. guidance or correction.
2. A supervisor will meet with an employee when the employee has an existing problem or is experiencing difficulty understanding or adjusting to matters which are affecting the employee's work. The supervisor will:
 - a. discuss with the employee the supervisor's concerns with the employee's performance and why it is unsatisfactory;
 - b. determine if an employee is experiencing a problem in his/her personal or professional life that might impact job performance;
 - c. discuss any problems that might be affecting efficiency, morale or professionalism;
 - d. discuss the impact or potential impact of the problem if a resolution is not found;
 - e. identify the range of possible solutions which might be employed to deal with any problems; and
 - f. determine the appropriate range of activity for correction of any problem.
3. To assist with performance management, the Internal Affairs Unit may provide supervisors with performance-related information regarding officers assigned to their team for use as a management tool. This is limited to information not readily available to supervisors through other means or disseminated on an on-going basis. Supervisors will discuss the information with their subordinates and acknowledge exceptional police work as well as areas that need improvement or change and offer guidance and training as necessary.

B. Counseling

1. Occasionally an employee may encounter personal or professional problems that are impacting his/her work performance and are beyond his/her ability and the ability of his/her supervisors to resolve. If the Department lacks the resources or ability to provide a remedy, outside counseling should be made available. Other options include the Police Chaplain or the Department's Peer Support Team.
2. Should professional counseling services be deemed necessary for the good of the employee and the Department, the Chief of Police may order an employee to participate in a counseling program. Formal counseling precipitated by serious problems or infractions should be documented. It will be noted in an employee's internal affairs file if it is a component of a final disciplinary decision.
3. Once the decision is made to refer an employee for counseling, the supervisor and/or employee should contact the department's Human Resources Manager to make the appropriate arrangements.
4. The fact that a referral is made to the Employee Assistance Program or to another health care provider does not diminish or change the employee's rights to confidentiality in those settings. An employee is entitled to confidentiality of any information he or she chooses to share with the provider of those services and the department will only be notified if the employee poses a risk to himself or herself or others or is deemed unfit for duty. Officers should be aware that, in the case of a department referral, their attendance at a program may be verified by the care provider.

C. Performance Feedback

1. Performance feedback is used to recognize excellent performance or to assist employees in need of improvement. It may be corrective or preventative in nature or focus on the necessity for a person to change his/her present behavior or work methods.
2. A supervisor will consult with an employee when the employee fails to meet performance standards or is in need of improvement and daily direction has not resulted in satisfactory progress in work performance. Consultation with a supervisor is designed to provide guidance in improving the employee's attitude, behavior or performance and may be necessary when more informal methods have failed to correct a problem.
3. Performance feedback is not discipline and does not require the presence of a union representative. It must be documented in the Performance Evaluation notes and will serve as a record that the supervisor and employee met and discussed methods of improvement.
4. Performance feedback should also be utilized to acknowledge and document exemplary employee performance in the Performance Evaluation notes.

D. Training

1. Training can be utilized to address matters of poor performance or a violation of Department standard operating procedures. Performance problems which arise because the employee either misunderstood procedures or was never made aware of the correct action, are indicators of training needs. These needs may be addressed through corrective training.
2. Supervisors may request that an officer be assigned to training whenever the supervisor feels that the employee's performance will benefit thereby. An employee may be assigned to training to correct a lack of skill, knowledge or ability to perform assigned tasks.
3. It is expected that through participation in various training programs, employees will continue

to maintain awareness of changing law enforcement techniques, strategies, best practices and professional development opportunities.

E. Job Improvement Plans

1. Job improvement plans are an important part of the performance management process and may be used whenever a supervisor feels it will be most beneficial to the employee and the department. Nothing in this policy precludes a supervisor from using a job improvement plan at any step in the supervisory process.
2. Job improvement plans should be used to bring areas of ongoing concern to an employee's attention. A job improvement plan is a written document that identifies trends of behavior or levels of employee performance that need improvement or correction. Job improvement plans specify the area of concern, detail the corrective action to be taken, set measurable goals and establish periodic review dates.
3. Instances when a job improvement plan is appropriate include:
 - a. when informal discussions with the employee have not resulted in correction of or improvement in the performance concern.
 - b. when it is necessary to request training to address a performance concern.
 - c. when there are performance concerns in multiple areas.
 - d. when there is a need to address performance concerns related to complex tasks.
4. The following procedure should be followed for all job improvement plans.
 - a. The supervisor will complete a job improvement plan which includes:
 - i. the identified problem behavior or performance concern.
 - ii. a detailed list of the steps that should be taken by the employee. The plan may also include steps a supervisor will take in support of achieving the goals.
 - iii. details regarding how progress is to be measured and the establishment of review dates. It may be necessary to establish multiple review dates to correlate with various steps in the plan.
 - b. The supervisor and employee will meet to discuss the plan and establish a review date.
 - c. The employee will sign the plan to acknowledge receipt of a copy.
 - d. The Lieutenant will sign the plan before forwarding it to the Major or Division Head, as appropriate.
 - e. The Captain or Division Head will forward the plan to the PAO/Human Resources for filing.
 - f. On the established review date, the supervisor will retrieve the plan from personnel and meet with the employee.
 - g. If the employee has achieved the desired performance or behavior and/or completed the assigned training, it will be noted and the plan will be signed by the employee and the supervisor, dated, forwarded to the Lieutenant, Division Head and/or Major and re-filed in Human Resources.
 - h. If no improvement is noted, the supervisor will inform the employee what action will be taken to resolve the deficiency. That action will be noted on the plan and handled in accordance with the above procedure.
5. Job improvement plans will be kept for six months after completion of the next annual evaluation, as long as the review date has been reached. At the end of that period, if the performance concern has been satisfactorily addressed, the plan will be destroyed.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 09/23/2012	Number 37
Subject	Performance Management Review System	
Review		

I. Purpose

This policy sets out the procedures and responsibilities for administering the Performance Management Review System.

II. Policy

It is the policy of the Department to utilize a system for tracking and reviewing incidents that can adversely affect both the employee and the goals of the Department. The intent is to keep employees productive, avoid disciplinary action and reduce citizen complaints.

The Performance Management Review System (PMRS) is designed to assist supervisors in monitoring the performance and behavior of personnel for whom they are accountable. An essential element of an effective personnel management system is the early identification of sworn employees (both supervisory and non-supervisory) who engage in conduct that may be contrary to the goals and values of the Police Department. The Performance Management Review System is not disciplinary in nature and no discipline shall be imposed as a result of a performance review. The department retains the management right, however, to discipline poor performance and/or violations of department Standard Operating Procedures by an employee.

III. Performance Management Review System

- A. The Performance Management Review System will be administered and maintained by the Internal Affairs and Training Units. The Performance Management Report (PMR) shall include, but not be limited to, the following data:
 - 1. Awards and Commendations
 - 2. Training
 - 3. Calls for Service
 - 4. Arrests; including a breakdown of the criminal charges.
 - 5. Use of Force Incidents
 - 6. Assaults on an Officer
 - 7. Sick Leave Usage.
 - 8. Motor Vehicle Pursuits
 - 9. Discipline
 - 10. Overtime/Leave Usage/Comp time balance
 - 11. Cruiser Accidents
 - 12. Complaints: including a brief summary of all Internal Affairs investigations involving the officer.
 - 13. No Complaints and Resubmits returned from the District Attorney's Office.
 - 14. Outside Employment
 - 15. Most recent annual performance evaluation and progress reports within the last 12 months.
 - 16. Lawsuits and Notices of Claim
 - 17. The dates of Performance Reviews completed within the previous five (5) years and the resulting action plans.
 - 18. Job Improvement Plans since the last evaluation.
- B. The Performance Management Report shall include a summary of the information listed in Section A above as well as a numerical comparison of the officer to officers on his/her patrol team.
- C. The Internal Affairs Office shall monitor the Performance Review System and initiate a review whenever:
 - 1. An officer is involved in three (3) use of force incidents in any ninety-day period or seven (7) in any

- 365-day period.
 2. An officer receives discipline for two separate incidents in twelve (12) months.
 3. A Lieutenant requests a review. The review must be approved by the Assistant Chief of Police. The Internal Affairs Unit will maintain a copy of the report. If the Lieutenant requests the review solely as a management tool, it is not necessary for the report to be reviewed by the Performance Review Committee. If an immediate concern is identified that needs to be addressed through an action plan, the report and plan will be reviewed by the Committee.
 4. A member of the Command Staff or the Chief of Police requests a review.
 5. Reasons for requesting a review may include, but are not limited to, poor performance, attitude or behavior or a citizen complaint or Notice of Claim.
- D. An Internal Affairs supervisor shall, on a weekly basis, review all pertinent records to determine if a performance review should be initiated according to the guidelines in Section C. If a PMR is necessary or requested, the supervisor shall immediately notify all members of the command staff. The PMR must be completed within ten (10) days of the notice and forwarded to the involved officer's Lieutenant. The Lieutenant must complete a review, meet with the officer and create an action plan (as outlined in Section E) within ten (10) days of receipt of the PMR.
- E. After receiving a PMR, the Lieutenant of the subject officer will ensure that the following actions occur:
1. He/She will meet with the subject officer's Sergeant to review the report.
 2. The Lieutenant and Sergeant will then meet with the officer, provide him/her with a copy of the review report, discuss the report with the officer and:
 - a. explain the purpose and process of Performance Management Review;
 - b. discuss the factors which triggered the review and the data in the PMR; and
 - c. discuss the causes for information in report, for example, uses of force or citizen complaints.
 3. Following that meeting, the Sergeant and Lieutenant will devise a written action plan for the employee. The action plan will include an analysis of the collected data including areas in need of improvement or change, patterns and performance or training issues and any mitigating factors.
 4. The Lieutenant will then meet with the Performance Review Committee to obtain approval of the plan. The Sergeant may also be asked by the Committee to attend the review meeting.
 5. The Committee shall review the Performance Review Report and the action plan developed by the officer's Sergeant and Lieutenant and determine whether the proposed plan is acceptable and meets the needs of the officer and the department.
 6. After the Performance Review Committee has approved the plan, the Lieutenant and Sergeant will explain the plan to the employee. The Lieutenant and Sergeant shall monitor the employee's performance to ensure that the officer follows the action plan.
 7. If the committee requests it, the Lieutenant will periodically report back to the committee and the Chief of Police in writing as to the officer's progress.
- F. The action plan may include, but is not limited to:
1. Informal Counseling/Discussion
 2. Referral to Peer Support
 3. Referral to the City of Portland Employee Assistance Program
 4. Participation in training
 5. Reassignment to a FTO (Probationary Officers)
 6. Reassignment or transfer (temporary or permanent)
 7. Establishing specific performance goals for the employee
 8. Increased supervision with periodic performance monitoring
 9. Referral for a fitness for duty evaluation
 10. Creation of a Job Improvement Plan
 11. Assignment of a date for re-review.
- G. The fact that a referral is made to the Employee Assistance Program, for a Fitness for Duty evaluation or to another health care provider as a result of a performance review does not diminish or change the employee's right to confidentiality in those settings. An employee is entitled to confidentiality of any information he or she chooses to share with the provider of those services and the department will only be notified if the employee poses a risk to himself or herself or others or is deemed unfit for duty. Officers should be aware that, in the

case of a department referral, their attendance at a program may be verified by the care provider.

- H. The Performance Management Review Committee shall meet as necessary. The Major shall chair the Performance Review Committee. Committee members shall include the Chief of Police, Assistant Chief, Commander, Internal Affairs Lieutenant, the Training Sergeant, the Police Attorney and the Lieutenant of the subject officer.
- I. All documentation regarding the performance review, the action plan and any follow-up reports shall be filed in the Internal Affairs office.
- J. Evaluation:
In February of each year, the Internal Affairs Lieutenant shall submit an evaluation of the Performance Management Review System to the Chief of Police as part of the Internal Affairs Annual Report. The report will include statistical information as well as an evaluation of the effectiveness of the system and recommended changes.

PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE

	Subject:	Mental Health Crisis Intervention and Protective Custody	Policy #:	40F
	Distribution:	All Personnel	Effective Date:	07/14/2013
	Standards:	IACP, BOT 5	Revision Date:	03/01/2020
	By Order Of:	Chief of Police	Review:	Biennially

I. PURPOSE:

To provide guidance to employees on the options and resources available to assist individuals who appear to be mentally ill and/or experiencing a mental health crisis.

II. POLICY:

The Portland Police Department will make reasonable attempts to provide assistance to individuals who appear to be mentally ill and/or experiencing a mental health crisis. This assistance will include, but is not limited to, referral to an appropriate medical or mental health agency, assistance and care by family members or service providers, voluntary transport to a medical facility or, if necessary, placing individuals in protective custody and aiding in the involuntary commitment process, as appropriate.

III. DEFINITIONS:

Advanced Healthcare Directive: An individual instruction from, or a power of attorney, for health care by, an individual with capacity for use when the person appears to lack capacity.

Crisis Intervention Officer / Team: An officer or group of individuals, including officers, specifically trained in the identification, handling and disposition of individuals exhibiting signs of a mental health crisis.

De-escalation: The use of verbal or non-verbal actions and tactics, whenever feasible and possible, preceding a potential force encounter. This may include, but is not limited to the use of distance, cover, tactical repositioning, and communication in order to stabilize the situation, reduce the immediacy of the threat, and allow for more time and options for resolution.

Involuntary Commitment (Blue Paper Process): A three-step process by which a person (friend, relative, social services worker, psychologist, medical doctor, law enforcement officer) applies for involuntary admission of an individual to a mental hospital. A clinician evaluates the individual and, if the clinician certifies that the individual is mentally ill and poses a likelihood of harm, a judicial officer reviews and endorses the paperwork reflecting the first two steps of the Application for Emergency Involuntary Admission to a Mental Hospital (blue paper).

Least Restrictive Form of Transportation: The vehicle used for transportation and any restraining devices that may be used during transportation that impose the least amount of restriction, taking into consideration the stigmatizing impact upon the individual being transported and the safety of the transporting police officers.

Mental Health Crisis: Behavior, such as loss of contact with reality, extreme agitation, severe depression, delusions, hallucinations, suicidal or homicidal statements or actions, or an inability to

control actions or care for oneself, which creates a threat of *imminent* and *substantial* physical harm to the person or to others and that appears to be of sufficient severity to require professional evaluation.

Mobile Crisis Service System: A team which provides mobile crisis services on a 24/7 basis. Services include triage for consumers, immediate responses to consumer needs when in crisis and assistance with a proper disposition of cases. Proper disposition may include hospitalization, placement in a “crisis bed,” in home supports or referral for services. The system is accessed by calling 774-HELP, 888-568-1112 or 211.

Protective Custody: Custody taken by a law enforcement officer when that officer has determined that there exists reasonable grounds to believe, based on probable cause, that a person seems mentally ill and therefore presents a threat of immediate and substantial physical harm to that person or other persons. Or a situation in which an officer knows that a person has an advance healthcare directive authorizing mental health treatment and the officer has reasonable grounds to believe based on probable cause, that the person lacks capacity to make decisions for himself/herself.

Threat of Imminent and Substantial Physical Harm: A reasonably foreseeable risk of harm to someone, taking into consideration the immediacy of the potential harm, the seriousness of the potential harm, and the likelihood that harm will occur. Harm threatened may include: suicide or serious self-injury; violent behavior or placing others in reasonable fear of serious physical harm; or reasonable certainty of severe impairment or injury because a person is unable to avoid harm or protect himself/herself from harm.

IV. PROCEDURES:

A. Officer Assessment / Interaction

1. Officers are not expected to diagnose any mental condition(s), but should recognize behaviors that are potentially destructive, dangerous and / or indicative of a person experiencing a mental health crisis.
2. When dispatched to a possible mental health call, officers should assess the situation, determine whether or not a crime has been committed, and / or whether the person requires police intervention to aid in a medical or mental health crisis. Officers are encouraged to consider appropriate referrals or other alternatives to arrest when investigating violations of a minor nature committed by a person with mental illness.
3. When interacting with a person suspected to be experiencing a mental health crisis, officers should:
 - a. Utilize CIT and other relevant training while following priority of life protocols to enhance scene security, public, officer and subject safety.
 - b. Make it a priority to utilize the time necessary to assess the situation and attempt de-escalation techniques. The goal of these tactics is to slow down the situation, allowing access to additional resources that may mitigate the intensity of the encounter, help gain voluntary compliance, or otherwise allow for control of the situation and the safety of those involved without the need to use force, or with the use of a lower level of force.
 - c. Request assistance from back-up officers, particularly if the person may be taken into custody, the Behavioral Health Unit, Mobile Crisis, or a supervisor, as appropriate.

4. Depending on the type and/or level of mental health crisis the person is experiencing and if the officer determines that protective custody is not necessary, the officer may:
 - a. Refer the person to a medical or mental health practitioner and leave the person in the care of friends, relatives or service providers; or take other steps necessary to maintain public safety. Referral resources include: the PD Behavioral Health Unit, 211, mental health agencies, a hospital with voluntary inpatient services, or Mobile Crisis (774-HELP or 888-568-1112).
 - b. Assist the person with immediate voluntary treatment by providing transportation to Maine Medical Center, Mercy Hospital or other local agency equipped to provide care.
 - c. If probable cause exists to believe a crime has been committed and protective custody is not appropriate, arrest the person and transport him/her to jail.

B. Protective Custody

1. Whenever a police officer has probable cause to believe that a person may be mentally ill and, due to that condition, represents an *imminent* and *substantial* physical harm to themselves or someone else, or if the person has an advance health care directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity, the officer(s):
 - a. may take the person into protective custody; and deliver the person immediately for examination by a medical practitioner; or
 - b. for a person who has an advance health care directive authorizing mental health treatment, take the person for examination to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective.
2. When formulating probable cause, the law enforcement officer may rely upon the totality of the circumstances to include personal observations, reliable third party information, and known history to determine if the person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons.
3. If protective custody is appropriate, the officer must transport the person to the Maine Medical Center or Mercy Hospital emergency room for evaluation, utilizing the least restrictive form of transportation.
 - a. Officers may use their discretion regarding the means of transportation. Acceptable forms of transportation include an ambulance, the arrest van, a police cruiser or, in extreme circumstances, four-point restraint.
 - b. Officers may use their discretion regarding the handcuffing of the individual during transport. An officer may choose not to handcuff a cooperative, calm individual.
 - c. Officers must search the person for weapons and/or drugs prior to transport; regardless of the reason for the transport.

4. If the examining clinician determines that the person satisfies criteria for emergency involuntary hospitalization, the person will remain in the care and custody of the examining hospital. Department employees may assist in this process as appropriate.
5. If the examiner determines that emergency involuntary hospitalization is not appropriate, and there is no probable cause to believe the person has committed a criminal or civil violation, the hospital will release the person from protective custody and, the officer will, if contacted and with the person's permission, either take the person home or return the person to the place from which the person was taken into custody.
6. If the person is released by the hospital and has committed a criminal violation and is subject to a warrantless arrest, the officer, in consultation the licensed practitioner and his/her supervisor, shall determine whether to transport the person to jail or summons him/her for the offense. The officer should consider the most appropriate means to protect the public and ensure treatment of the individual in crisis.
7. If the person is released by the hospital and has committed a civil violation, the officer may use his/her discretion in determining whether to summons the person for the violation.

C. Reporting

1. An officer who encounters a person in a mental health crisis may make a notation in the CAD call narrative regarding the encounter and/or file a CIT report, as appropriate. The officer must document any contact that results in protective custody in a CIT or casualty report containing sufficient detail to establish probable cause.
2. An officer is assigned to a call involving a person in a mental health crisis will complete a CIT contact report.
3. All CIT contact reports must be accompanied by an incident/casualty report. The case number should be recorded on both reports and both originals forwarded to records using standard procedures.
4. Whenever a person experiencing a mental health crisis is transported to a hospital, the officer completing the CIT report will advise hospital staff of the circumstances of the incident and provide staff (preferably Acute Psychiatry) with a copy of the CIT report.
5. The Behavioral Health Coordinator will review all CIT contact reports and conduct follow ups and referrals as appropriate.
6. The Behavioral Health Coordinator will prepare and submit a report in February of each year to the Chief of Police summarizing the data compiled from the non-identifying statistical data from the contact reports, including any recommendations to related training, policies or practices.

D. Training / Administration

1. Initial CIT certification requires the completion of a 40-hour block of training. All sworn officers shall be CIT certified within one year of completing field training.

2. All sworn personnel must complete relevant annual training to maintain proficiency.
3. The Behavioral Health Coordinator will coordinate the department's crisis intervention efforts and training.
4. The Commander shall designate a Lieutenant or Sergeant to act as the Coordinator's liaison with the Uniformed Operations Group.

This policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this policy will only form the basis for administrative sanctions by the individual law enforcement agency and/or the Board of Trustees of the Maine Criminal Justice Academy.

PORTLAND POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE

	Subject:	BODY WORN CAMERAS	Policy #:	86B
	Distribution:	All Personnel	Effective Date:	04/01/2018
	Standards:	IACP	Revision Date:	03/01/2020
	By Order Of:	Chief of Police	Review:	Biennially

I. PURPOSE:

This policy provides guidelines and procedures for the use of body-worn cameras to include maintenance, recording, data storage, data retention, and release of video.

II. POLICY:

It is the policy of the Portland Police Department to utilize body worn cameras (BWC) to enhance transparency and protect the safety and welfare of officers and the public while improving the reliability of investigations and assisting in prosecutions.

III. DEFINITIONS:

Activate: Switch the BWC from passive recording to active recording mode. No audio is captured while the BWC is operating in passive mode.

Active Recording Mode: Capturing video and audio into incident-based media segments.

Body Worn Camera (BWC): A Department issued device worn affixed to an officer's uniform with the capability of capturing, recording, and storing audio and video information.

Deadly Force Incident: Any incident involving the use of deadly force by an officer; the use of any level of force which results in death; any departmental in-custody death or a use of force incident that results in serious bodily injury.

Evidentiary Recording: Recording of an incident/encounter that is relevant to an administrative, civil, or criminal investigation including a crime, an arrest, issuance of a citation, a search, or a use of force. Evidentiary recordings also include verbal statements given by a victim, witness or suspect during the investigation into a crime or potential crime.

Healthcare Facility: Any place primarily engaged in providing healthcare. Examples include hospitals, urgent care centers, doctor's offices, and nursing homes.

Law Enforcement Encounter: any encounter between an officer and a member of the public in which there is the potential for, or the likelihood or certainty of, some type of official law enforcement action or use of the officer's authority (e.g. traffic stops; field, victim or witness interviews; investigative stops; searches; detentions; arrests; uses of force). A law enforcement

encounter does NOT mean a casual greeting or interaction with the public or an encounter in which a member of the public seeks information such as directions or other general information from an officer.

Mobile Video Recorder (MVR): Vehicle based digital audio/video recording system.

Non-evidentiary Recording: Recordings which do not aid in an investigation or prosecution. Examples of non-evidentiary recordings include a traffic stop which does not result in a citation, summons, or arrest; a code run which does not lead to a law enforcement encounter (e.g. a medical call); a citizen contact that doesn't result in any enforcement action and is not needed for a particular investigation (e.g. assisting a motorist, a general conversation with a member of the community, an FI not associated with a particular investigation); or a call which results only in a warning (e.g. a loud party complaint).

Undercover: a law enforcement officer whose identity as an officer is fully concealed. Undercover officers differ from plainclothes officers who wear civilian clothing instead of a uniform, but carry normal police equipment and identification.

IV. GENERAL

- A. The Department-issued BWC is authorized for use in the course of official, uniformed police duties; BWC's shall not be used for personal purposes.
- B. The use of non-Department issued BWC's while on duty is prohibited.
- C. Officers must complete an approved BWC training before being authorized to wear and use the device.
- D. Additional training will be provided as necessary to ensure the continued effective use of BWC and to incorporate changes, updates, or other modifications to this policy and/or the BWC equipment.
- E. The BWC equipment and all data, images, video, and metadata captured, recorded or otherwise produced by the equipment is the sole property of the Department and shall be securely stored and retained in accordance with applicable laws and department policy.
- F. Department personnel shall not edit, alter, erase, duplicate, or otherwise distribute BWC recordings without prior authorization of a member of command staff. Recordings may be copied or shared only for investigative or prosecutorial purposes.
- G. The BWC shall be stored in a transfer station dock when not in use by an officer.

V. PROCEDURES

- A. Maintenance and General Use
 - 1. At the start of each shift or overtime detail, officers shall properly check out the BWC prior to undocking it from the transfer station. Officers shall confirm the BWC is

correctly configured and properly functioning. Malfunctions, damage, loss or theft of BWC equipment will be immediately reported to a supervisor.

2. If assigned to a mobile video recorder (MVR) equipped cruiser, officers shall log in to the MVR and dock the camera in the WiFi Base to synchronize the BWC and MVR equipment. Once the equipment is confirmed to be synced, a vehicle inspection shall be conducted.
3. When synced with the MVR, the BWC will automatically activate:
 - a. when the emergency lights are turned on, and
 - b. in the event of a crash.
4. Once powered on, the BWC passively records video until activated. No audio is captured during passive recording. Upon activation, the BWC saves 30 seconds of pre-activation video and continues to record both video and audio.
5. Body worn cameras shall not be completely powered off during an officer's shift for any reason. The BWC's are configured with vibrating alerts and indicator lights to allow police staff to know when the BWC is recording. Officers can put their BWC into covert mode for tactical and officer safety purposes.
6. In order to capture quality data, the BWC must be worn in a vertical, upright position outside the outermost uniform garment/item so as to give the lens a clear, unobstructed view of the event/person contacted. Officers will wear the BWC so that uniform clothing will not cover or shield the BWC or hinder its functionality. Officers must utilize the mounting equipment provided by the Department.
7. The BWC may be stored in the cruiser docking station or an officer's uniform pants cargo pocket whenever the officer is on break, in the restroom, locker room or office.
8. Officers are encouraged to inform individuals that they are being recorded if the officer believes it may help de-escalate the situation.

B. Mandatory Recording

1. The body camera shall be activated at the initiation of any law enforcement encounter with a member of the public. When an immediate threat to the officer's life or safety makes activating the camera impossible or dangerous, the officer will activate the camera at the first reasonable opportunity to do so.
2. Once activated, the camera should stay on for the duration of the call or encounter except as outlined in paragraph D below.
3. All requests for consent (e.g. consent to search without a warrant), should be recorded along with the individual's response to that request unless the BWC has been deactivated in accordance with paragraph D.2 below.

C. Unless specifically prohibited in paragraph E below, an officer may activate their BWC whenever they deem its use is appropriate to further law enforcement purposes.

D. Ending a Recording

1. Officers are not required to cease recording an event, situation or circumstance solely at the demand of a member of the public except:
 - a. At the request of a victim;
 - b. When specifically requested by a person having a reasonable expectation of privacy in a location, such as a residence, when officers are present without a warrant or in non-exigent circumstances;
 - c. When speaking with a person seeking to anonymously report a crime or assist in a law enforcement investigation if the person requests the camera be turned off or if the officer believes that ending the recording will facilitate the exchange of information.
2. Officers who stop recording an incident shall document the reason the recording was stopped on camera and in the corresponding incident report or Computer Aided Dispatch (CAD) narrative if no report is generated.
3. Upon responding to a crime scene, officers shall record any encounters with witnesses, suspects or other involved parties. Once the scene is secured and investigators or evidence technicians have assumed control of the scene, BWC recordings shall be stopped at the direction of the on-scene commander.

E. Prohibited Recordings

1. BWC will be used only for official law enforcement duties. Cameras shall not be used to record:
 - a. Communications with co-workers or other law enforcement personnel without their knowledge or permission;
 - b. When officers are on break or otherwise engaged in personal activities or where there is a reasonable expectation of privacy such as in offices, restrooms or locker rooms;
 - c. While appearing before an officer of the court;
 - d. While inside correctional facilities with a posted no-recording policy;
 - e. During encounters with undercover officers and confidential informants (CI's);
 - f. For communications involving law enforcement tactical and strategic policy, procedures or plans;
 - g. While conducting strip searches;
 - h. While conducting an intoxilyzer test (due to the possibility of radio frequency interference); or
 - i. Domestic Violence related safety planning and threat assessments.

F. Special Recording Circumstances

1. School Resource Officers (SRO's)
 - a. SRO's shall only activate the BWC when responding to cases of suspected criminal activity such as incidents that may lead to or include searches, seizures, arrests, interrogations, or the issuance of summonses; incidents that involve or are likely to

involve disruptive, adversarial, or confrontational behaviors or as otherwise consistent with PPD policy and law.

- b. The SRO's BWC will not be operated covertly and the light indicating the BWC is recording shall be visible whenever the BWC is activated on school property.
- c. SRO's will not activate their BWC when present during meetings between students and school personnel that are of an administrative nature and do not involve suspected criminal activity or the potential for disruptive behavior.
- d. SRO's will not record in places where a reasonable expectation of privacy exists such as locker rooms or restrooms unless the activation is required for the performance of official duties as described above.
- e. SRO's shall inform the subjects involved they are being video and audio recorded as soon as it is practical and safe to do so.

2. Healthcare Facilities

- a. When responding to a healthcare facility, officers shall not activate the BWC until just prior to meeting with the complainant/victim on a call for service or when encountering an incident which would require BWC activation under this policy.
- b. However, if an officer anticipates a violent or assaultive person, the officer will activate the BWC in advance of the encounter or as soon as reasonably practicable.
- c. Officers must be particularly aware of patients' rights to privacy when in a medical setting. Officers should not record patients during medical or psychological evaluations or treatments and should try to avoid recording uninvolved persons or medical documents.

3. Constitutionally Protected Assemblies

- a. Facilitating the First Amendment rights of individuals is one of our primary law enforcement purposes.
- b. Officers present at an assembly for a law enforcement purpose (e.g to provide escort services, for crowd control or in response to a call for service) will record these events for purposes of documenting violations of law, police actions, and for training purposes.
- c. These recordings shall not be used to gather intelligence or to identify individual participants not engaged in unlawful conduct.

G. Classifying Recordings

- 1. At the conclusion of an incident, the officer shall stop the recording and select the appropriate classification for the event:
 - a. Evidence
 - b. Other
- 2. Officers assigned to a cruiser shall enter the case number associated with the recording (if applicable). Officers not assigned to a cruiser (e.g. footbeats, bike patrols, and certain outside details) shall enter the case number (if applicable) after downloading recordings as indicated in paragraph I. below.

H. Inadvertent Recordings

Officers may request, in writing to the Chief of Police, that any specific inadvertent recording of a strictly personal nature (e.g in the restroom, during a mealbreak, or in other areas where a reasonable expectation of employee privacy exists) be purged. The Chief or designee will review the request and the recording. If the recording is strictly personal and fails to capture a law enforcement purpose, it will be purged. Video purging will be tracked through the Evidence Library software audit feature.

I. Downloading Video

1. Officers will place the BWC in the appropriate transfer station dock (patrol equipment room, Jetport Office, Peaks Island) at the end of each shift or overtime detail to allow for automatic download of recordings.
2. On a daily basis, School Resource Officers shall manually download recordings to a secure PPD server.
3. All Officers must enter the case number (if applicable) and confirm that the event is properly classified.
4. If a deadly force incident occurs, a supervisor shall take custody of all involved BWC's and transfer them directly to Internal Affairs for download. The supervisor shall document the collection and transfer of the BWC's in a supplemental report.
5. In the case of a serious crime, BWC's may be collected and downloaded by an Evidence Technician at the direction of the Criminal Investigations Division (CID) Lieutenant or Shift Commander.

J. Viewing Video

1. Personnel shall not:
 - a. Access or view a recording unless doing so involves a legitimate law enforcement purpose.
 - b. Use any device to copy, photograph, or record the playback of any video/audio recorded by a BWC.
 - c. Upload a BWC recording to any social media or public website except with permission of a member of command staff.
2. The Evidence Library software includes an audit log for each recording. The log lists all historical information about the event file to include when it was played back and by whom.
3. BWC recordings shall be viewed on the Department computer system or by using the Watchguard SmartConnect Application. When using the SmartConnect App, officers shall not take screenshots of any recording.
4. Officers may review video footage during report preparation except when ordered otherwise or in the event of a deadly force incident. If a deadly force incident occurs, an officer must obtain the express permission of a member of Command Staff to review video footage prior to report preparation.

5. Officers should document their review of video footage in the narrative portion of their report.
6. Officers who are the subject of a criminal investigation may not view any audio/video recordings related to the incident except upon the approval of the prosecuting authority and the Chief of Police.
7. The parent or legal guardian of a minor subject of a BWC recording may request to schedule a time to view a BWC recording at the PPD or, if appropriate, the school where the recording occurred.
8. Unless authorized by the Chief, officers who are the subject of an Internal Affairs complaint or witness to the incident which is the basis for the complaint may not view any audio/video recordings related to the incident prior to the initial interview with Internal Affairs. The IA investigator may show the video to involved officers after the initial interview if necessary as part of the investigation.
9. Non-law enforcement personnel shall not be allowed to view video at the scene of an incident unless doing so is necessary to further an investigation or ensure the safety of the public.
10. Shift Commanders are authorized to allow involved civilians and/or their parents or guardians, if a juvenile is involved, to view recordings of incidents in which they are involved after the fact in order to aid in inquiry or complaint resolution.
11. Supervisors shall conduct routine reviews of recordings to ensure the BWC system is working properly and that recordings are being captured in accordance with this policy and department training. Supervisors are also permitted to conduct audits of recordings when reviewing an incident. Minor violations of this policy should be viewed as training opportunities and not as cause for discipline. Should the behavior be repeated after being informally addressed, appropriate corrective action shall be taken. Violations of other Department written procedures will be addressed in accordance with SOP 22.
12. Any time a supervisor is reviewing or investigating a Use of Force or Pursuit, he/she shall review BWC recordings of all officers who were involved or witness to the incident.
13. Supervisors may refer to body camera reviews when preparing performance evaluations, however review of recordings is not intended to replace the review of officer performance in the field.
14. The training sergeant is authorized to view BWC recordings regarding incidents which may serve as learning or teaching tools. The Operations Lieutenant must approve any use of a BWC recording in a training.
15. The Department retains the right to restrict or limit access to recordings related to critical, unusual, or other incidents on a case-by-case basis. Access to specific files may be restricted at the direction of Internal Affairs, the Police Attorney, and members of Command Staff.

K. Recording After the Fact

1. The BWC system allows for an event to be created after the fact whether or not the camera was activated if the recording has not been overwritten. No audio is captured in an after the fact recording.

2. Any request to create an event after the fact must involve a legitimate law enforcement purpose and be approved by the Shift Commander with Command Staff notification.
3. If not already recorded, a recording after the fact must be created for any incident involving a use of force.
4. If a non-time sensitive Recording After the Fact cannot be created due to technical difficulties, the involved camera shall be taken out of service and set aside for the Digital Systems Technician to process during working hours.

L. **BWC Recordings and Discipline**

If body camera footage exists, discipline will not be dispensed solely on the basis of the body worn camera footage, but rather upon consideration of all relevant evidence collected during the IA investigation including video footage.”

VI. RETENTION

- A. All recordings shall be retained for 385 days unless otherwise flagged for extended retention.
- B. Anytime an investigator is assigned a case, he/she shall create a case in Evidence Library and place all applicable recordings in that case file to prevent purge. The case file will be deleted when the case is inactivated, cleared exceptionally, or resolved and the associated recordings will be deleted.
- C. The Police Attorney shall flag recordings associated with any claim filed, pending litigation or a personnel complaint. These recordings shall be preserved at the direction of the Police Attorney until the matter is resolved and archived in accordance with retention periods established in state law.
- D. The Neighborhood Prosecutor shall flag any recordings required for the prosecution of city ordinance violations and administration of the Disorderly House program. The flag will be removed at the direction of the Neighborhood Prosecutor and the recording will be purged.
- E. The Internal Affairs Unit shall copy any recordings associated with a complaint or use of force to the IA Pro Server. Recordings will be preserved on the IA Pro Server for seven years. The original recording shall be retained in the body camera software in accordance with the rules established above.

VII. RELEASE OF RECORDINGS

- A. Members of the public may request copies of BWC recordings using the standard Maine Freedom of Access Act (FOA) process.
- B. BWC recordings will be released by the Police Attorney in accordance with the Maine Freedom of Access Act and other applicable laws.

- C. A fee will be charged to cover the administrative costs associated with the release of BWC recordings.
- D. SRO recordings that depict students will not be released by PPD to any person outside the PD, except to juvenile justice or prosecutorial authorities for review or adjudication of juvenile charges without written parental consent or legal process.
- E. Portland Public Schools requests to obtain copies of recordings may only be made by the Superintendent. The Chief of Police, or designee, may approve such a release in accordance with applicable law, such as to promote the safety of students, staff and others.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 06/29/2014	Number 90
Subject Internal Affairs		
Amendment Date		

I. Purpose

The purpose of this policy is to establish uniform procedures for addressing complaints of misconduct or violations of law or department procedure by police personnel. These procedures will govern the investigation and resolution of complaints and are designed to ensure that the integrity of the department is maintained through an internal system whereby objectivity, fairness and justice are ensured by an impartial investigation and review. An additional purpose of this policy is to ensure that complaint information is compiled, tracked, analyzed and made available to the Chief of Police for use in evaluating employee performance, assessing training needs, limiting civil liability, and managing the department

II. Policy

It is the policy of this department to examine all complaints of alleged employee misconduct to determine if the allegations are sustained and, if so, to take appropriate action. There are two methods of resolving complaints outlined in this policy – cooperative resolution and investigation. The procedures addressed in this policy will be administered in a manner consistent with applicable collective bargaining agreements and/or the City's personnel policy and local, state and federal law.

III. Confidentiality of Investigations

Internal investigations are conducted for the internal use of the Portland Police Department. These investigations are to be kept confidential in accordance with state law. The department reserves the right; however, to provide information regarding investigations to the department's legal counsel, the Maine Criminal Justice Academy, the Police Citizen Review Subcommittee or the appropriate prosecutorial authority, if warranted. All other releases of investigative information will be done only as mandated by a court, in keeping with collective bargaining agreements or with the employee's and the department's consent.

IV. Definitions

Blue Team: A software program that allows officers and supervisors to enter use of force reports in to the system and transmit the report through the chain-of-command for review and approval.

Complaint: A clear and specific allegation of employee misconduct which, if true, would constitute a violation of law or the standard operating procedures of the Portland Police Department. An inquiry about police procedure or department policy is not a complaint.

Cooperative Resolution: A method of resolving minor, external complaints that is facilitated by the Shift Commander and does not result in discipline.

External Complaint: A verbal or written allegation of employee misconduct made by a member of the public or an anonymous source. The complaint may be investigated or resolved using the cooperative resolution process based on the seriousness of the complaint and the wishes of the complainant.

Internal Affairs Unit: The unit which reviews, documents and controls all investigations into alleged employee misconduct or law or procedural violations. Its members include the Internal Affairs Lieutenant, a sergeant, an administrative assistant and any additional investigator(s) temporarily assigned by the Chief of Police. The Internal Affairs Lieutenant shall report directly to the Assistant Chief of Police concerning any internal investigation.

Internal Affairs Lieutenant: The Lieutenant assigned to provide direct supervision of the Internal Affairs Unit.

Internal Affairs Investigator: The permanently assigned sergeant or any supervisory officer who is assigned by the Chief of Police to investigate, or assist in the investigation of a complaint.

Internal Complaint: A verbal or written allegation of employee misconduct made by a police department employee. The complaint must be investigated by the Internal Affairs Unit.

Misconduct: Any violation of any statute, law, department policy, rule, regulation or order. Any conduct which, by its nature, will reflect adversely or unfavorably upon the department or is otherwise inappropriate.

Discipline: measures taken to correct or address behavior that involves violation(s) of department policy, supervisory orders, City ordinances or State or Federal law. Disciplinary actions include: an oral or written reprimand, suspension from duty without pay, demotion or termination. Routine critiques or corrections of an officer's performance by his/her supervisors are not considered to be discipline.

V. External Complaints

- A. The Portland Police Department will accept and document all complaints of employee misconduct. A supervisor must meet with the complainant within thirty (30) minutes of the Complainant's arrival at the department; if call volume and resources allow. The complainant shall be informed of the approximate wait time. If he/she chooses not to wait, the complainant will be given an IAU Complaint Form and asked to provide contact information (name, phone number, or email) to allow the Shift Commander to contact the complainant at a later time.
- B. External complaints may be received by the following means:
 - 1. **In-Person.** It is the responsibility of the on-duty shift commander, or his/her designee, to promptly meet with and interview all complainants. The Shift Commander shall ensure that:
 - a. Whenever possible, discussions with complainants are video and audio recorded.
 - b. Review with the complainant the options of a formal complaint versus a cooperative resolution. The attached document titled "Options When Filing a Complaint about an Officer" should be used in all instances.
 - c. An IAU Complaint Form or Cooperative Resolution Form is fully completed;
 - d. When completing the IAU complaint form, a written statement is received from the complainant or, if the complainant is unable to write a statement, a synopsis of the complainant's statement is written.
 - e. Cooperative resolutions may be summarized by the Shift Commander on the Cooperative Resolution Form and do not require a written statement from the complainant.
 - f. If the subject officer's Shift Commander is off duty and unavailable to facilitate the cooperative resolution process in a timely fashion, the on duty supervisor will consult with the major. If it is determined that a cooperative resolution is appropriate, the form will be forwarded to the appropriate shift commander. A determination whether the complaint can still be mediated or if it will require an investigation is required within seven days. A copy of the cooperative resolution form shall also be sent to the Major. The complainant shall be advised that there may be a delay in the handling of the complaint.
 - g. No complaint is refused due to the physical condition of the complainant. If the complainant cannot be interviewed due to physical condition, the IAU Complaint Form shall be partially completed with contact information and a brief synopsis of the complaint and arrangements made for a subsequent interview with an Internal Affairs investigator.
 - h. The completed IAU Complaint Form is promptly submitted directly to the Internal Affairs Unit either in person or by sealed envelope.
 - i. The Cooperative Resolution Form is forwarded through the chain of command to the Chief's office.
 - 2. **By mail, telephonic or electronic submission.** If a complainant chooses not to come to the police department to make a complaint, the Internal Affairs Sergeant shall mail that person a complaint form along with an explanation of the complaint process.
 - 3. **Anonymous complaints** that include a clear and specific allegation of employee misconduct shall be accepted and investigated as thoroughly as possible.
 - 4. **By Notice of Claim:** The receipt of a Notice of Claim or a lawsuit against the Department or its employees

will be referred to the Internal Affairs Unit for investigation at the discretion of the Chief of Police. If the matter is not referred for additional investigation, the Notice of Claim will be filed in the office of the Police Attorney.

VI. **Cooperative Resolution**

- A. Cooperative Resolution may be used to document external complaints that allege minor infractions of department policies and procedures. By taking the time to listen and resolve the complaint at the initial contact, it may be possible to clear up an issue without requiring an investigation. Complaints of a minor nature do not include allegations of criminal activity, excessive force, improper arrest, search or entry, civil rights violations or repeated minor violations. A pattern of repeated minor violations is considered any two similar prior complaints, formal or cooperatively resolved, within the past twelve months. This process is referred to as cooperative resolution.
- B. In determining if a cooperative resolution is appropriate the supervisor must:
 - i. Ensure that the nature of the complaint is minor and appropriate for resolution in this manner.
 - ii. Review the details of the complaint with the Major to ensure it meets the criteria for cooperative resolution. Approval must be granted before proceeding and should be sought when the complaint is initially received.
 - iii. Ensure that both the officer and the citizen agree to the cooperative resolution process and that both parties understand that the process will not result in the discipline of the officer.
 - iv. Have all parties acknowledge in writing, using the Cooperative Resolution Form, that the outcome of the process is final.
- C. Cooperative resolution may be implemented through a meeting between the supervisor, the employee and the complainant or by separate meetings with the supervisor.
- D. All cooperative resolutions must be documented on a Cooperative Resolution Form. The form will be sent through the chain of command to the Chief of Police for review.
- E. Cooperative Resolution Forms approved by the Chief of Police are forwarded to the Internal Affairs Unit where a control number is assigned. Internal Affairs will track cooperative resolution complaints for patterns of behavior related to individual officers and/or for department-wide training or policy revisions. The Cooperative Resolution Form will also be sent to the Police Citizen Review Subcommittee.
- F. Discussions between employees and supervisors occurring as part of the cooperative resolution process are not recorded and employees will not be entitled to union representation during the meetings that occur as a result of the mediation. Employees are entitled to consult with a union representative regarding their decision whether to proceed with a cooperative resolution process and potential outcome. If union consultation causes an unreasonable delay the supervisor will initiate the formal complaint process.
- G. No internal findings, as outlined in Section XI, and no discipline will result from a cooperative resolution of a citizen's complaint.
- H. A follow-up letter will be sent by the Chief's office to the complainant to acknowledge the Chief's receipt and review of the complaint and to obtain feedback from the complainant regarding the cooperative resolution process. Contact information for the Internal Affairs Lieutenant will be included in the letter.

VII. **Internal Complaints**

- A. Internal complaints may be generated by any police employee who believes that a police department employee has engaged in misconduct or violated department policies and procedures.
- B. The complaint should be documented on an IAU Complaint Form. The IAU complaint form should include a written statement from the employee summarizing the complaint.

- C. The completed IAU Complaint Form must be promptly submitted directly to the Internal Affairs Unit either in person or by sealed envelope.

VIII. Assignment of Investigations

- A. The Internal Affairs Unit will log each IAU Complaint Form as it is received and assign a control number.
- B. The following types of allegations shall be investigated by the Internal Affairs Unit: criminal activity; excessive force; improper arrest; improper entry; improper search; conduct which violates a person's civil rights; any rule infractions that would bring the department into disrepute or risk the safety of fellow employees or the public; repeated minor violations; notice of claim-related incidents; and any other matter as directed by the Chief of Police.
- C. Minor rule infractions (e.g. rudeness) may be investigated by the Internal Affairs Unit or resolved via a cooperative resolution by the Shift Commander of the subject officer.

IX. Investigation of Complaints

- A. Internal Affairs investigators shall have the following responsibilities:
 - 1. Conduct thorough, timely and objective investigations of all complaints. Every attempt shall be made to complete the investigation and command review within thirty (30) days of the receipt of the complaint. The Chief of Police, the employee that is the subject of the complaint and the complainant shall be notified of any delay in completing the investigation and told the reason for the delay.
 - 2. Notify in writing, as soon as possible, any employee who is the subject of an internal investigation and provide them with a copy of their rights and duties. The notice shall include the name of the complainant and the nature of the allegations unless, in the opinion of the Chief of Police, the release of this information could impede the investigation.
 - 3. Notify the complainant in writing of the receipt of any complaint filed electronically or by mail.
 - 4. Maintain and update the Internal Affairs database for each assigned case.
 - 5. Forward the transcription (if any) of each interview to the Internal Affairs Lieutenant for review upon its completion.
 - 6. Compile all relevant reports, statements, and transcriptions for inclusion in the case file.
 - 7. Notify the complainant and the employee in writing of the status of the investigation and any significant developments every thirty (30) days. Significant developments include, but are not limited to, a recantation of the complaint; mistaken identity, the inability to locate a material witness or a new allegation.
 - 8. Submit for command review, at the conclusion of an investigation, a completed investigation file.
 - 9. Notify the complainant, employee, the employee's union president and the employee's Lieutenant or Division Head in writing of the disposition of the investigation.
- B. The Internal Affairs Lieutenant shall have the following responsibilities:
 - 1. Ensure that all assigned cases are handled in a uniform, timely, thorough and objective manner.
 - 2. Coordinate training for the Internal Affairs sergeant concerning the investigation of internal complaints.
 - 3. Monitor and review the work of investigators and track case progress on a weekly basis.
 - 4. Review transcripts of interviews (if any) and identify issues that need follow-up or clarification.

5. Supervise and coordinate cases involving multiple investigators.
6. Investigate complaints as necessary.
7. Review completed investigations and prepare a Letter of Transmittal that includes findings and a dispositional recommendation in cases assigned to Internal Affairs investigators.
8. Ensure that all relevant information is entered into appropriate databases.
9. Provide routine information on all cases to the command staff, as necessary.

X. **Command Review**

- A. Completed investigations will be submitted to the police attorney for review of timeliness, thoroughness, and objectivity.
- B. The completed investigation will then be reviewed by the sworn employee's Shift Commander and through the chain of command, as follows:
 1. Each level of review will be completed within one week. Reviewers may simultaneously review case information on-line on the police department's password protected U drive.
 2. Each reviewer will provide, in writing, a recommendation and justification for appropriate action.
 3. If a reviewer is unavailable, the case will be moved on to the next level of review.
 4. A reviewer may make recommendation to the Assistant Chief of Police for additional information or clarification.
- C. A completed investigation involving a non-sworn employee will be submitted to that employee's Division Head for review and forwarded through the chain of command to the Assistant Chief of Police utilizing the above review guidelines.

XI. **Findings**

- A. The Chief of Police shall review all completed internal investigations and may request additional information or clarification. The Chief will give final approval to the disposition of the case as follows:
 1. **Sustained:** Sufficient evidence exists to indicate that the employee did, in fact, commit one or more of the alleged acts. The Department shall have the burden of proving that a violation is sustained by a preponderance of the evidence.

It shall be the duty of the Chief of Police to refer all sustained complaints of criminal conduct or criminal convictions to the Complaint Committee of the Board of Trustees of the Maine Criminal Justice Academy.
 2. **Not Sustained:** No violation of Department rule, regulation or procedure or local, state or federal law has been proven.
 3. **Exonerated:** The incident occurred, but the employee's actions were justified, lawful and proper.
 4. **Unfounded:** Reasonably credible evidence exists to indicate the complainant's allegations are false.
- B. The Chief shall afford the employee an opportunity for an informal hearing to discuss the outcome of the investigation with the Chief or his/her designee, prior to the imposition of discipline or corrective action. The employee shall be entitled to representation at that hearing.

Following completion of the investigation and prior to any hearing with the Chief, the employee shall be provided with a copy of all material contained in the IA file.

XII. Employee's Duties and Rights during an Internal Affairs Investigation

- A. The employee's duties and rights contained in this section shall be applicable to any internal investigation. A supervisor should afford an employee all the applicable rights under this section whenever the supervisor reasonably believes that an employee's conduct may result in either a criminal investigation or the filing of an internal affairs complaint. The failure of the supervisor to afford an employee these rights does not entitle the employee to disobey the orders of a supervisor. The supervisor's failure to allow an employee to exercise these rights will be considered by the Chief of Police prior to imposition of any discipline against the employee.
- B. Once a complaint has been designated for investigation, the employee shall be advised, in some confidential, written manner, that a complaint has been made and that an investigation will be conducted. The notice will include the name of the complainant, the nature of the allegations, and copies of the employee's rights and duties. The employee will be instructed that he/she is prohibited from contacting the complainant. In addition, the employee will normally be afforded the opportunity to read the initial complaint form. If the disclosure of the existence of the complaint or the identity of the complainant would impede the investigation, the Chief of Police shall decide all questions concerning employee notification and employee access to complaint information.
- C. Complaints against an employee that allege a criminal violation will be investigated as any other criminal matter by supervisors assigned to the Criminal Investigations Division or other supervisors designated by the Chief of Police. Evidence Technicians may be asked to collect, process and test evidence. The polygraph examiner may be asked to conduct polygraph exams. During the investigative process the employee involved may be reassigned or placed on administrative leave with pay at the discretion of the Chief of Police. Employees under criminal investigation will be afforded the same rights as any other suspect, and any other rights afforded by the applicable collective bargaining agreement. Generally, once the criminal investigation is complete, an internal affairs investigation and/or disciplinary process may be initiated. If appropriate, an internal affairs investigation may be conducted contemporaneously and separately with the criminal investigation.
- D. Employee statements
 - 1. All employees interviewed as part of an internal investigation shall be provided with a written copy of the Garrity Warning and the employee's rights section of the applicable collective bargaining agreement. The employee will be asked to sign a copy of the Garrity warning to acknowledge its receipt. In cases involving criminal allegations, the employee will not be read the Garrity warning until the criminal investigation is completed. The employee may be asked to provide a voluntary, non-custodial statement. In the event an employee is subject to custodial interrogation in the course of a criminal investigation, the employee shall be advised of his/her Miranda rights.
 - 2. As part of the internal investigation, the employee will be asked to provide information which is specifically, directly and narrowly related to the employee's duties or fitness for duty. An employee may be asked about off-duty conduct if there is a sufficient relationship between the employee's off-duty conduct and the employee's official duties. Statements made by the employee during an internal investigation, and subject to Fifth Amendment protection, will not be used against an employee in a criminal proceeding. However, a matter may be referred for further investigation by a criminal investigator or the Maine Criminal Justice Academy Complaint Review Committee if the Chief of Police deems it appropriate.
 - 3. Employees may request to have an attorney or union representative present and available for consultation during an investigative interview. That representative is not entitled to interfere with, disrupt or impede the interview in any way. The employee's representative should act in accordance with federal and state law and these procedures.
 - 4. An employee's statement may be provided in any one of the following forms, at the discretion of the

investigator:

- a. an investigator's summary of a taped interview with the employee. This method will be utilized in the majority of internal investigations as it allows for the completion of investigations in a timely manner, while still assuring that the investigation is thorough and complete.
 - b. a written statement completed and signed by the employee.
 - c. a transcription of a recorded interview with an investigator.
5. The same methods as in #4, above may be utilized by the investigator, at his/her discretion, to obtain statements from civilian witnesses.

E. Procedures During an Investigation

1. All interviews conducted as part of an IAU investigation will be recorded. Interviews with the employees who are the subject of the investigation will be held within thirty (30) days of receipt of the complaint whenever possible. All interviews will be conducted at a time mutually agreeable to the employee and the interviewer unless the seriousness of the allegation requires that an interview be completed immediately.
2. The interview will be held in the Internal Affairs office or at location agreeable to both parties.
3. Written statements shall be submitted to the investigator immediately upon his/her request. The failure to submit a statement upon request, without good cause, may result in discipline.
4. During interviews conducted by more than one investigator, there will be one designated interviewer; only the interviewer will ask questions of the employee.
5. Employees under investigation shall not use or be subject to offensive language, nor threatened with transfer, dismissal, or disciplinary action during an interview. No promise or reward shall be made by the investigator as an inducement to answer questions.
6. All interviews with employees conducted as part of an IAU investigation will be recorded. The investigator will have discretion in determining if a transcript of the interview or a summary should be prepared. If the recordings are not transcribed, they will be retained as part of the investigation file. A copy of the recording shall be provided to the employee with the completed investigation file.
7. All investigations shall be conducted without unreasonable delay. An employee who is the subject of a complaint will be advised of the final outcome of the investigation, in writing, within forty-five (45) days of the filing of the complaint form w (45) days of the filing of the complaint form, the Chief of Police may grant an extension, in writing, of the forty-five (45) day time period. The employee, who is the subject of the complaint and the complainant, will be given an explanation of the delay and will be advised within fifteen (15) days of the completion of the investigation and its submission to the command staff for review. An employee or the employee's representative may contact the Internal Affairs Unit at any time to ascertain the status of the investigation of a complaint filed against the employee.
8. Prior to any hearing with the Chief of Police concerning possible disciplinary action, an employee will be allowed access to all information and/or documents upon which the contemplated discipline is based, unless in the judgment of the Chief of Police circumstances warrant anonymity.
9. An employee will be given the opportunity to explain his/her actions to the Chief of Police prior to the imposition of any disciplinary action.
10. The department maintains digital photographs of all current Portland Police Officers. The Department reserves the right to allow complainants or witnesses to view these photos to identify officers whose identity is material to an investigation. Officers may be required to periodically have an updated photograph taken.

11. All other medical or laboratory examinations, photographs, line-ups, and disclosures of financial information will only be requested of employees if they are material to a current investigation and only upon individual written authorization from the Chief of Police.
12. Employees will only be asked to submit to a polygraph examination if the examination is material to a current investigation and only upon individual written authorization from the Chief of Police.

XIII. **Responsibilities of the Internal Affairs Unit**

- A. The Internal Affairs Unit shall have primary responsibility for the recording, registering, and controlling the investigation of all complaints against employees, whether initiated by a citizen or the Department.
- B. The Internal Affairs Unit shall have the following responsibilities:
 1. Receipt of all complaint forms and maintenance of a numbered index system.
 2. Receipt of Blue Team Reports.
 3. Maintenance of secure central files, in the Internal Affairs office, of all internal investigations, Blue Team Reports, and other complaints against the department and/or its employees. These files shall be the exclusive repository for all internal investigations and all Blue Team Reports. These files will be kept confidential in accordance with this policy.
 4. Notification to the Police Attorney of any investigation or use of force that may result in civil liability to the City.
 5. Recommending to the Chief of Police that a matter be referred to the District Attorney or Attorney General's Office for consideration of criminal charges.
 6. Review of "Unfounded" internal investigations with the District Attorney's Office if it appears that charges against the complainant for unsworn falsification may be warranted.
 7. Review of car to car messaging once per month.
 8. Review of the status of employees' operator's licenses once per year.
 9. Tracking and analysis of complaint and force information on a continuing basis for the following purposes:
 - a. to identify training needs, policy deficiencies, and areas where the department can be more responsive or improve service;
 - b. to conduct an annual audit and summary of complaints and uses of force and to forward a copy of said summary to the Maine Criminal Justice Academy, in accordance with state law.
 - c. to compile an annual report for the Chief of Police containing an audit and summary of complaints and uses of force, and reporting any need for changes in training, policy, or department procedures.
 - d. to notify the Chief of Police should the number, pattern, or nature of complaints or uses of force indicate a potential risk of civil liability or civil rights violations.
 10. Administer and maintain the Performance Management Review System in accordance with SOP.
 11. Conduct investigations of officers' use of deadly force as part of the Administrative Investigations Team.

XIV. **Citizen Review**

- A. Per Chapter 2 of the City Code, the Police Citizen Review Subcommittee [PCRS] of the Civil Service Commission shall review the investigation of external complaints alleging excessive force, civil rights violations, conduct that would constitute a criminal offense, and any other complaint that the subcommittee deems necessary to review in order to carry out its duties.
- B. Internal investigations shall be forwarded to the PCRS only after final disciplinary action has been taken and all appeals exhausted or the case has been closed with no disciplinary action.

XV. **Public Comment on Investigations**

For legal, contractual, and policy reasons, public comment on internal investigations shall be limited to the Chief of Police or the Chief's designee. Inquiries from the news media or public shall be referred to the Chief of Police. The items of information released by the Chief of Police or the Chief's designee upon request will be in accordance with applicable state and federal Law.

PORTLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

	Effective Date 06/29/2014	Number 90B
Subject	Deadly Force Investigations	
Amendment Date		

I. Purpose

The purpose of this policy is to establish uniform procedures for the investigation of all incidents involving the use of deadly force by police officers. These procedures will govern only the investigative aspects of those incidents. Post incident procedures are addressed in SOP 90A.

II. Policy

It is the policy of the department to thoroughly, quickly and impartially investigate the use of deadly force by an officer. This may involve several separate investigations. The investigations will include:

- a) a criminal investigation of the suspect's actions by the department's Criminal Investigations Division. If the incident occurred in a different jurisdiction, the Chief of Police may request a joint investigation with that jurisdiction's police department.
- b) a criminal investigation of the involved officer(s) conducted by the Office of the Attorney General.
- c) an administrative investigation conducted by the Internal Affairs Unit (IAU) and other assigned personnel, to determine if there were any violations of department policy.

The procedures outlined in this policy are intended to elicit the information necessary to fully review the officer's use of force. These procedures are intended to facilitate the investigative process by allowing all the investigative components to work in a cooperative and collaborative fashion; while still respecting the rights of all of the involved parties.

III. Confidentiality of Investigations

Administrative investigations of the use of deadly force are conducted for the internal use of the Portland Police Department and are to be kept confidential in accordance with state law. The department reserves the right; however, to provide information regarding an investigation to the department's legal counsel. An officer whose conduct is the subject of an investigation is entitled to review the investigation upon its completion.

IV. Definitions

Administrative Investigation Team [AIT]: An investigative unit supervised by the Assistant Chief and comprised of personnel from the Internal Affairs Unit, the assigned evidence technician(s) and any other investigative resources deemed necessary by the Chief of Police. This unit is solely responsible for the internal, administrative investigation of the use of force by the officer.

Deadly force Incident: Any incident involving the use of deadly force by an officer; the use of any level of force which results in death; any departmental in-custody death or a use of force incident that results in serious bodily injury.

Garrity warning: A warning given to a police officer who is interviewed by his/her employer in a potentially disciplinary setting to advise the officer that he/she is part of an investigation, that the officer is obligated to give statements for internal purposes, and these answers may not be used

against the officer in the prosecution's case in a criminal proceeding. *Garrrity* statements may be used in rebuttal.

V. Command Responsibilities

- A. The Commander of the Uniformed Operations Group shall assume responsibility for the oversight and management of the personnel assigned to the police headquarters after the incident, including, but not limited to, involved officers, dispatch personnel, peer support employees and union representatives.
- B. The Assistant Chief shall assume responsibility for the oversight and management of investigative personnel including, but not limited to, investigators, evidence technicians and patrol officers and shall act as the liaison with personnel from the Attorney General's office.

VI. Investigative Responsibilities

- A. The internal, administrative investigation of a deadly force incident shall be the responsibility of the Administrative Investigations Team. If a member of the Administrative Investigation Team is involved in the incident being investigated, a supervisor of equal rank will replace that member. The Administrative Investigation Team will work in coordination with the Criminal Investigation Division as they each conduct parallel investigations. The AIT will share any investigative knowledge that is not a product of compelled statements of involved officers. Investigative knowledge obtained by CID is provided to the AIT. Examples include results of witness interviews, canvasses and physical evidence collected.
- B. The CID Lieutenant shall retain responsibility for the criminal investigation of the suspect's actions and assign CID personnel, as he/she deems necessary.
- C. The Investigation Division of the Office of the Attorney General is designated as the official representative of the Attorney General in the investigation of police-involved deaths. The Attorney General's Office is required by law to investigate any use of deadly force by a law enforcement officer while acting in the performance of the officer's duties. The sole purpose of the Attorney General's investigation is to determine whether the force used by the officer was legally justified by self-defense or the defense of others; and to rule out criminal prosecution of the officer. Notification to the Attorney General and Office of the Chief Medical Examiner shall be the responsibility of the Assistant Chief, acting in his/her role as the supervisor of the Administrative Investigations Team.

VII. Investigative Duties

- A. Upon notification, Administrative Investigations Team members shall respond to the scene, the police department or other location as specified by the Assistant Chief.
- B. The assigned evidence technician(s) shall respond to the scene to begin preliminary processing of the scene and to ensure the preservation of evidence. The collection of evidence from the involved officer shall be a priority and shall be accomplished as quickly as possible. Processing may be done at the scene or at the police department.
- C. The AIT shall receive a general briefing and walk-through by the scene supervisor regarding the circumstances surrounding the shooting. The involved officer(s) may also be asked at some point to participate in the scene walk-through, if they are able.

- D. In dealing with involved personnel, AIT members should be cognizant of the symptoms of post traumatic stress including time and space distortions, confusion, hearing and visual distortion and shock.
- E. The involved officer(s) shall be relieved of the task of writing a Use of Force report. A Blue Team entry shall be made by the AIT for statistical purposes.
- F. An AIT member will be responsible for reviewing and collecting all of the video/audio information connected with the incident; including cruiser video, interview video, car to car messaging, email and dispatch audio recordings. The original material shall either remain in the custody and control of the team for investigative purposes or be logged into the evidence system. Copies will be made and/or released to CID and the Attorney General's office as needed, with the approval of the Assistant Chief.
- G. An AIT member will review all of the information collected by the AIT during the course of the investigation and be periodically briefed by the CID Lieutenant regarding the status of the criminal investigation. Information gathered by the AIT, pursuant to the *Garrity* warning, shall not be shared with CID investigators. The Assistant Chief will periodically brief the Chief of Police.
- H. If an autopsy occurs as a result of the incident, an AIT member will be assigned to attend.
- I. Blood/Urine testing: It is the police department's policy not to request blood or urine samples from the involved officer(s) unless the officer(s) requests the sample, the involved officer(s) shows objective symptoms of alcohol or drug use or it is obtained pursuant to the Fourth Amendment as part of the criminal investigation.

VIII. Officer Interviews

- A. An AIT member or the Chief's designee, will be responsible for conducting the formal interview (if necessary) of the officer(s) involved in the incident as well as the witness officers. The interviews shall be audio recorded. No more than two members of the Administrative Investigations Team may be present at the interview but only one person should question the officer.
- B. Prior to the interview, the involved officer(s) and department witnesses shall be read and provided with a copy of the *Garrity* warning. *Garrity* statements will not be released to CID or the Attorney General's office.
- C. The interview will be limited to questions which are specifically, directly and narrowly related to the incident. An officer may be questioned about off-duty conduct if it relates to the incident.
- D. The officer shall be advised that he/she has the right to have an attorney or union representative present during the interview. An officer's request to have an attorney or union representative present shall not unreasonably delay the interview.
- E. An officer can be disciplined for refusing to participate in an internal interview.
- F. If an officer chooses to participate in an interview with members of the Attorney General's office as part of their investigation of the incident, the AIT may request that the officer or his/her attorney arrange for the interview to be recorded and voluntarily provided to the AIT. An officer may refuse the request and will NOT face any discipline for refusing. If an officer provides an audio recording of the interview to the AIT, it may serve to

eliminate any additional interviews by the AIT. An officer or his/her attorney, who agrees to provide this information, acknowledges that the interview is NOT being compelled by the *Garrity* ruling.

IX. Administrative Findings

- A. The Assistant Chief or his/her designee shall prepare a written report, which includes the team's investigative conclusions about the incident and recommendations to the Chief regarding discipline, policy revisions and training alternatives. The final investigative report will be assigned an Internal Affairs case number and filed in the Internal Affairs Unit.
- B. The report shall be subject to command review to determine whether:
 - 1. the use of force was justified,
 - 2. the actions of the officer(s) were in accordance with department policy,
 - 3. any training or policy modifications are necessary and
 - 4. the Chief of Police should consider disciplinary action.
- C. The Chief of Police shall have final approval of the disposition of the case in accordance with the procedures established by SOP. The Chief may take action based on the command staff recommendations at any time before or after the findings of the Incident Review Team are completed.
- D. The involved officer shall receive a copy of the written report, the command staff recommendations and the Chief's final disposition.

X. Incident Review Team

- A. Pursuant to Maine law, within thirty (30) days of the completion of the Attorney General's investigation and the department's administrative investigation, the Chief of Police will convene an Incident Review Team consisting of members appointed by the Chief.
- B. The members appointed will include:
 - 1. the Assistant Chief, Commander and Captain;
 - 2. one member who is a commissioned officer of the Maine State Police;
 - 3. one member of the public who is not and has not previously served as a sworn law enforcement officer;
 - 4. the police attorney;
 - 5. the Use of Force Committee representatives from the PBA and the SOA;
 - 6. a Chief of Police from an outside agency; and
 - 7. any other individuals the Chief deems appropriate.
- C. The investigator(s) assigned to the incident will make a presentation to the Incident Review Team and answer any questions that may arise concerning the incident.

- D. The purpose of the Incident Review Team is to review both a factual reconstruction of the event and the use of deadly force to advise the Chief of Police on the following issues:
 - 1. Whether relevant policy was understandable and effective during the incident.
 - 2. Whether changes in policies or procedures are necessary to increase public safety or officer safety.
 - 3. Whether training methods or protocols should be reviewed or revised.
 - 4. Whether department equipment or other resources should be replaced, supplemented or modified.
- E. The police attorney will draft a report that reflects the findings of the Incident Review Team on the above issues for delivery to the Chief of Police. The Incident Review Team does not have the authority to determine whether an officer engaged in misconduct, violated department policy or procedures or should be subject to discipline for his/her actions.
- F. The Chief of Police will determine whether training, equipment and/or policy revision is needed.
- G. At the conclusion of the review process, a copy of all relevant reports and information will be filed with the Internal Affairs Unit.
- H. The involved officer will be given a copy of the Incident Review Team's report and may meet with the Chief to discuss the team's findings.
- I. The report of the Incident Review Team is a public record as provided by law. The following individuals will be provided with copies of the report: the City Manager, the Mayor, Corporation Counsel, members of the Portland City Council and the Police Citizen Review Subcommittee, members of the police department's Training and Use of Force Committees, the involved officer(s) and the Chair of the Board of Trustees of the Maine Criminal Justice Academy.
- J. After the Incident Review Team has made its findings, the Training Sergeant will convene the Training Committee, if necessary. At that meeting, a Command Staff member will review the Incident Review Team report with the committee and discuss any training concerns raised in the report.

Disclaimer: Any policy, procedure and/or rule shall not be construed as creating a higher legal standard of care or safety in an evidentiary sense with respect to third party claims. Nothing in this policy is intended to increase, modify or in any way affect current legal standards nor shall any deviation from these guidelines be considered a breach of any legal standard. The procedures articulated in this policy are for Department use only and do not apply in any criminal or civil proceeding. When a conflict occurs with Federal laws or Maine statutes, the law or statute will supersede the directive in conflict.

MAINE CHIEFS OF POLICE ASSOCIATION

MODEL POLICY

Subject SITUATIONAL USE OF FORCE	Effective Date 11/01/19	Number 1-1
Distribution All Sworn Personnel	Amends/Supersedes 1-1 dated 09/15/11	

I. Purpose

To provide officers with guidelines on the limits of officer authority and the use of deadly and non-deadly force and its reporting requirements.

II. Policy

This agency recognizes and respects the value and integrity of each human life. In vesting law enforcement officers with the lawful authority to use physical force to protect the public welfare, a careful balancing of all human interests is required. At times officers are confronted with situations in which control is required to affect an arrest, to protect the public or to ensure officer safety. Every attempt will be made to achieve control through advice, warnings, or persuasion. When resistance to police action or a threat to life or safety is encountered, however, law enforcement officers have a duty to exercise their authority and to use physical force to protect themselves and the public they serve. An officer may use only that physical force that the officer reasonably and actually believes is necessary to effectively bring an incident under control while protecting the officer or another, including the use of an electronic weapon and less-than-lethal munitions, if applicable. **BOT 1-1 (a)(b)(c) MLEAP 6.01**

The use of force, whether deadly or non-deadly, shall at all times be in accordance with the requirements of Title 17-A. All officers are responsible for being familiar with Title 17-A MRSA § 15, 106 (6) 107, 108, 110 and all other applicable statutes, as well as Chapter 2 of the Maine Law Enforcement Officer's Manual. **BOT 1-1 (d)**

Officers must abide by this policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees. **BOT 1-9**

III. Definitions **BOT 1-2 (a-x)**

Actual Belief: A subjective state of mind in which the actor holds a genuine or honest conviction.

Bodily Injury: Physical pain, physical illness or any impairment of physical condition (17-A M.R.S. §2(5)).

Canine (K-9): A department authorized dog, the training and certification of which has included handler protection and suspect apprehension. This is considered the use of non-deadly force (17-A M.R.S. §101(5)).

Chemical Agents or OC: Chemical mace. Oleoresin Capsicum (commonly referred to as "pepper spray" or "OC" or any similar substance composed of a mixture of gas, chemicals, inflammatory agents, irritants or similar substances that has or is designed to have a disabling effect upon human beings.

Incapacitating agents are designed to produce temporary physiological or mental effects, or both, which will render individual's incapable of concerted effort. Chemical Agents can be in the form of a liquid, gas or powder. This is considered the use of non-deadly force (17-A M.R.S. § 101(5)).

Command Presence: The ability to speak clearly and authoritatively, issuing concise commands using a tone that reflects control and professionalism.

Compliance Techniques: The methods of arrest, restraint, and control that include manipulation of joints, pressure point applications and take-down techniques to control an aggressive offender.

Deadly Force: Physical force, which a person uses with the intent of causing, or which the person knows to create a substantial risk of causing, death or serious bodily injury. Except as provided in 17-A M.R.S. §101(5), intentionally, knowingly, or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force. (17-A M.R.S. §2(8))

Electronic Weapon: A portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to have a disabling affect upon human beings. (The use of an electronic weapon is the use of non-deadly force.)

Excessive Force: Physical force that is unreasonable or unnecessary or inappropriate for the particular circumstances. Determining whether the application of physical force was reasonable and appropriate requires consideration of the severity of the crime, the nature and extent of the threat posed by the suspect, the degree to which the suspect resists arrest or detention, and any attempts by the suspect to evade arrest by flight. Facts or circumstances unknown to the officer may not be considered later determining whether the force was justified.

Firearm: Any weapon whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun, or shotgun. Any weapon that can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm. (17-A M.R.S. §2(12-A)).

Impact Weapon: A device or weapon designed for use by an officer in close quarter physical defense of the officer or another and/or control of an aggressive offender. Examples of an impact tool are a collapsible baton, a flashlight, or other similar device.

Individual Actions: As a part of the Situational Use of Force assessment process, the categories below can be used to describe an individual subject's behavior:

- **Cooperative:** Compliant and willing to obey, posing minimal threat to the officer(s) or others.
- **Resistive (Passive):** Non-compliance, defiance or failure to cooperate with lawful verbal direction, but offering no resistive or evasive bodily movement to prevent the officer's attempt at physical control (e.g., a passive demonstrator, a person going limp, prone or refusing to stand up, lie down, enter / exit vehicle, leave the scene, etc.).
- **Resistive (Active):** Physically resistive or evasive bodily movement, including but not limited to muscle tension, bracing, pushing, pulling, flailing or flight, to avoid or defeat an officer's attempt at physical control, or to prevent being taken into or retained in custody. Verbal statements, defiance and belligerence alone do not constitute active resistance.
- **Active Aggression:** A threat of an assault, coupled with any pre-attack indicators (e.g., clenched fists, flanking, fighting stance, etc.) and the present ability to carry out the threat or assault, reasonably indicating that an assault or injury to the officer or another person is imminent.
- **Assaultive (High Risk):** An overt act of an assault, or highly agitated or combative actions or behavior posing an imminent threat of injury to the officer or another. Such actions may include but are not limited to hostile physical or active resistance, kicking, punching, or spitting, whether an assault occurs or not.
- **Life Threatening:** Actions or behavior that could cause death or serious bodily injury, potentially justifying the use of deadly force.

Less Lethal Force: Response options that are not designed or used with the intention of causing (and have less potential for causing) death or serious bodily injury, including but not limited to chemical agents, electronic weapon, noise/flash diversionary device, or impact projectiles such as those fired by a PepperBall launcher, 40mm launcher; etc.

Less Lethal Grenade: A weapon designed to expel projectiles, including chemical agents and smoke. This is considered the use of non-deadly force

Less-than-Lethal Munitions: A low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy that has been designed to have a disabling effect upon human beings. (See Appendix 2) The use of a less-than-lethal munitions weapon is the use of non-deadly force.

Non-deadly Force: Any physical force which is not deadly force. (17-A M.R.S. §2(18))

Officer Presence: The presence of a law enforcement officer who is willing and able to handle a situation.

Officer Response Options: Choices available to an officer concerning the type of force to be used in response to a given situation, including but not limited to command presence, physical presence, voice commands, compliance techniques, takedowns, electronic weapons, chemical agents, impact weapons, canines, and deadly force.

Physical Force: The actual exercise of some form of kinetic energy (one person to another) of such a nature as to create an imminent and substantial risk of causing bodily harm.

Reasonable Belief: When facts or circumstances provided to or known to the law enforcement officer are such as to cause an ordinary and prudent officer to act or think in a similar way under similar circumstances.

Serious Bodily Injury: Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health. (17-A M.R.S. §2(23))

Situational Use-of-Force Options: A dynamic process by which an officer assesses, plans, and responds to situations that threaten public and officer safety and requires the use of force and control. The process includes an assessment of the situation and circumstances immediately confronting the officer, including but not limited to the severity of the crime or suspected offense, the level and imminence of any threat to the officer(s) or public, the level of resistance, the risk or apparent attempt to flee or escape; the suspect's behavior and individual actions (cooperative, resistive (passively or actively), assaultive / high risk, or life-threatening (posing a threat of death or serious bodily injury), and the officer's perceptions and tactical considerations. Based on this assessment, the officer selects from the available officer response options while continuing to evaluate the evolving situation, adapting a plan and actions that are appropriate and effective in bringing the situation under control.

Weapon of Availability: Flashlights, vehicles, tools, implements, objects or other devices that are not necessarily issued, intended or normally authorized as weapons, but that *may* be used in extraordinary circumstances when their use would be justifiable and no other adequate or suitable defensive tool is immediately available.

IV. Procedures

- A. The use of force shall be restricted to circumstances specified by law when necessary to accomplish a police task. No law enforcement officer is entitled to use force to effectuate a police purpose without first being trained in the use of that force.
- B. Officers shall periodically be issued up-to-date copies of the Maine Criminal Code (Title 17-A). Additionally, officers must be issued copies of this directive and instructed in its application prior to being authorized to carry any weapon.

C. Non-deadly Force *BOT 1-4*

An officer is justified in using a reasonable degree of non-deadly force upon another person when the officer reasonably believes it is:

- 1. Necessary to effect a lawful arrest or prevent an escape from a lawful arrest;
- 2. Necessary to defend the officer or a third person from what is believed to be the imminent use of non-deadly force against the officer or a third person; or
- 3. Necessary to restrain a person who the officer reasonably believes is about to commit suicide or inflict bodily injury upon the officer;
- 4. If an officer knows that an arrest or detention is illegal, then no use of force is justified.

D. Deadly Force *BOT 1-3 MLEAP 6.02*

An officer is justified in using deadly force only when the officer reasonably believes it is necessary:

- 1. To defend the officer or a third person from what the officer reasonably believes is the imminent use of deadly force. If feasible, the officer must issue a warning prior to using deadly force, e.g., "drop the weapon," or a similar instruction to cease the threatening behavior.
- 2. To effect an arrest or prevent the escape of a person and the officer reasonably believes that:

- a. the person has committed a crime involving the use or threatened use of deadly force, or is using a dangerous weapon in an attempt to escape; **and**
- b. there is an immediate danger that the person to be arrested will cause death or serious bodily injury to the officer or a third person unless apprehended without delay; **and**
- c. the person against whom the force is being used has reason to know the officer is a law enforcement officer.
- d. The force used **must** be a reasonable necessity to prevent the escape. In other words, there must be **no** other means reasonably available to prevent the escape.
- e. Officers should be aware that the mere fact that a person is a "fleeing felon" does **not** justify the use of deadly force.

E. Medical Aid **BOT 1-5 MLEAP 6.07**

Whenever an officer uses a degree of force, either deadly or non-deadly, which results in injury, the officer shall ensure that medical aid is rendered as soon as is practicable. No officer is to provide any level of medical aid which the officer is not trained to administer. If necessary, the injured person should be transported to a hospital, either by an officer or by ambulance in cases of more serious injury. If the individual refuses medical attention this must be noted on the Use of Force Report.

V. **Situational Use of Force**

The dynamics of all encounters are different, and it would be impossible to attempt to categorize and define all the levels of control appropriate in any given situation. The degree of control employed, however, should be in direct relationship to the amount of resistance employed against the officer or the level of threat that a person poses to the officer or others. The use of control may be in the form of advice, warnings, persuasion, verbal commands, passive control, the use of OC spray, physical contact, the use of non-lethal weapons, or the use of deadly force. The situational use of force options should be:

Verbal Commands: The use of verbal directions to control or dictate an individual's actions.

Passive Control: Light, physical touching to guide a subject's movements and overcome low levels of resistance.

Compliance Techniques: Actual, physical bodily contact with a subject and forcibly controlling a subject until resistance is overcome. This includes control and defensive tactics, striking a subject with your body, using OC spray, using electronic control devices or taking a subject to the ground. These tactics are the use of non-deadly force.

Defensive Tactics: The use of impact weapons to gain compliance and control. This includes the baton or the pepperball system. This also includes the pointing of a firearm at a person. All of these tactics are the use of non-deadly force.

Deadly Force: Force that may cause death or serious bodily injury including: the discharge of a firearm or the delivery of a strike to a subject's head with an impact weapon.

This section shall not be used to suggest or require officers to use or start at a level of control that is insufficient to address the level of resistance or threat that the officer is encountering.

Situational force options in correlation with the individual's actions are diagrammed in Appendix One.

VI. Deadly Weapons

A. Firearms

Law Enforcement Officers shall only carry firearms and ammunition authorized by this agency. All sworn personnel will be issued a copy of this Standard Operating Procedure and be specifically instructed in the use of force section before being allowed to carry a firearm for this agency. All weapons must be inspected by a firearms instructor prior to being issued to an officer.

1. Permissible Use of a Firearm

- a. For training at an approved range; or recreational shooting.
- b. To kill an animal that humanely requires its removal from further suffering when other dispositions are impractical;
- c. As a means of applying deadly force as defined by state law.

2. Prohibited Use of a Firearm

- a. As a warning shot; **MLEAP 6.09**
- b. At or from a moving vehicle, unless the circumstances justify the use of deadly force;
- c. When there is a clear and obvious danger of hitting bystanders, who may be in or near the line of fire;
- d. As an impact weapon.

3. Reporting the discharge of a firearm

Whenever an officer discharges a firearm, other than in training, recreational use, or dispatching an animal, a use of force report shall be filed. **MLEAP 6.06**

VII. Non-Deadly Weapons

A. Oleoresin Capsicum (O.C.) Spray

1. Officers shall carry only Department-issued O.C. Spray canisters. O.C. Spray may only be carried by officers who have been trained in its proper use. O.C. Spray is the only authorized non-impact weapon to be used in the application of non-deadly force.
2. The use of O.C. Spray is the use of non-deadly force. Therefore, it should be used only in those situations in which the use of non-deadly force is justified.
3. A Use of Force Report must be filed whenever O.C. Spray is used against a person.
4. An officer should allow a person who has received a dose of O.C. Spray to decontaminate as soon as possible after the use of the spray. Decontamination should not wait until the person is transported to jail. At times, an officer may find it impractical, for safety reasons, to decontaminate an individual at the scene of an incident. In such a case, an officer should decontaminate the person as soon as possible after the person's removal from the scene. The officer should explain in the Use of Force Report the fact that decontamination was not possible at the scene and the reason it was not possible.

If a person requests medical treatment after being sprayed, the officer shall make such treatment available as soon as is practicable after decontamination. O.C. Spray will not be used to threaten, to elicit information or persuade people to comply with orders, nor will it be used on people who are handcuffed, secured and properly in custody.

However, handcuffed persons may be sprayed after being warned and under the following conditions:

- a. During an attempt to or damaging department property; or
- b. During an attempt to or injuring an officer and/or a third party.

B. Baton

Only issued or authorized batons will be carried, and batons shall not be altered in any manner (i.e., increase in weight). Sound judgment must be exercised in the use of the baton due to its potential for causing death or serious bodily injury. The head, face and neck area of a person shall not be targeted

when the baton is used. Intentionally striking a person in the head with a baton shall be considered the use of deadly force.

When the use of the baton is necessary, the guidelines are as follows:

1. The baton should not be raised above the head to deliver a blow; overhead swings of the baton are easily blocked, enhance the possibility for the baton to be taken away from the officer and used against the officer.
2. Blows from the police baton shall be made in a sharp and deliberate motion and shall be directed to the appropriate target area, as follows:

LEVEL ONE AREAS - are targets selected for blocking and striking, which are the least likely to result in serious injury to a person; whenever possible, officers shall select a minimum level of force target when blocking or striking a suspect. These targets include forearm, buttocks, thigh, shin, Achilles tendon, instep, and lower abdomen.

LEVEL TWO AREAS - may be selected when blocks or strikes to a Level One blocking or striking target fail to conclude an attempted assault. Level Two targets include: upper arm, elbow joint, inside of wrist, back of hand, knee joint, shoulder, shoulder blades, rib cage, collarbone, and upper abdomen.

LEVEL THREE AREAS - should be selected only when blocks or strikes at Level One or Level Two fail on the first or second try, or do not correspond to the level of danger perceived. Officers must have reason to fear that they are in danger of great bodily harm or death if Level Three target areas are used to block or strike in self-defense. Level Three targets include: bridge of nose, temple, eyes, ears, jaw, upper lip, face, back of head, hollow behind the ear, throat, back of neck, solar plexus, groin, kidney, spine, and tail bone

3. Although the baton is an efficient and necessary weapon, it is not intended to replace the service sidearm. If deadly force is used or threatened and human life is imminently endangered, deadly force should be considered as a countermeasure. The baton may only be used by officers who have been properly trained in its use.

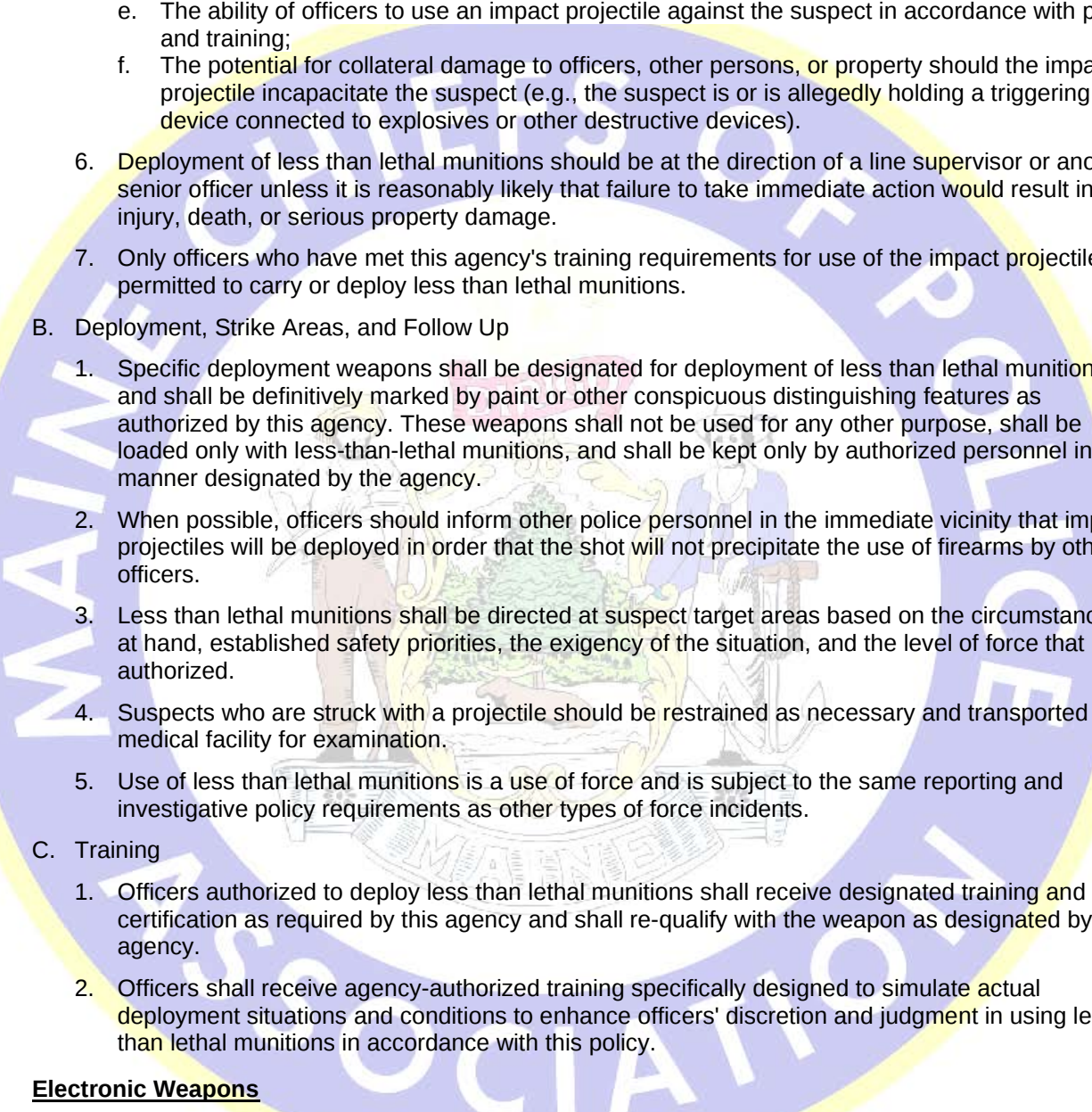
C. Flashlights

1. In such circumstances, when the flashlight is already in hand, it may be used defensively to fend off an attack.
2. Flashlights carried on duty will be no larger than a 4-cell flashlight.
3. Sound judgment must be exercised in the use of the flashlight due to its potential for causing death or serious bodily injury. The head, face and neck area of a person shall not be targeted when the flashlight is used. Intentionally striking a person in the head with a flashlight shall be considered the use of deadly force.
4. Although an officer justifiably may use any available tool as a weapon in emergencies, he shall make every reasonable effort to use approved weapons when lawfully required.

VIII. Less than Lethal Weapons

A. Guidelines for Use of Less than Lethal munitions

1. Less than lethal munitions may be used as one of many weapons if consistent with the situational use of force model.
2. All uses of less than lethal munitions shall be consistent with this agency's policy on use of force and principles of situational force.
3. Use of less than lethal munitions below that of deadly force.
4. Less than lethal munitions are primarily designed for use against subjects who appear to pose a threat of death or serious bodily injury to themselves or others.
5. There is a broad range of scenarios in which use of an impact projectile may be justified. Major factors to consider when deciding whether such use is justified include the following:

- 
- a. Seriousness of any crime committed by the individual;
 - b. Whether the individual is armed and, if so, the potential lethality/threat;
 - c. Propensity of the individual to be violent;
 - d. The urgency of the situation and potential impact of actions that may be committed by the suspect;
 - e. The ability of officers to use an impact projectile against the suspect in accordance with policy and training;
 - f. The potential for collateral damage to officers, other persons, or property should the impact projectile incapacitate the suspect (e.g., the suspect is or is allegedly holding a triggering device connected to explosives or other destructive devices).
6. Deployment of less than lethal munitions should be at the direction of a line supervisor or another senior officer unless it is reasonably likely that failure to take immediate action would result in injury, death, or serious property damage.
 7. Only officers who have met this agency's training requirements for use of the impact projectile are permitted to carry or deploy less than lethal munitions.
- B. Deployment, Strike Areas, and Follow Up
1. Specific deployment weapons shall be designated for deployment of less than lethal munitions and shall be definitively marked by paint or other conspicuous distinguishing features as authorized by this agency. These weapons shall not be used for any other purpose, shall be loaded only with less-than-lethal munitions, and shall be kept only by authorized personnel in a manner designated by the agency.
 2. When possible, officers should inform other police personnel in the immediate vicinity that impact projectiles will be deployed in order that the shot will not precipitate the use of firearms by other officers.
 3. Less than lethal munitions shall be directed at suspect target areas based on the circumstances at hand, established safety priorities, the exigency of the situation, and the level of force that is authorized.
 4. Suspects who are struck with a projectile should be restrained as necessary and transported to a medical facility for examination.
 5. Use of less than lethal munitions is a use of force and is subject to the same reporting and investigative policy requirements as other types of force incidents.
- C. Training
1. Officers authorized to deploy less than lethal munitions shall receive designated training and certification as required by this agency and shall re-qualify with the weapon as designated by this agency.
 2. Officers shall receive agency-authorized training specifically designed to simulate actual deployment situations and conditions to enhance officers' discretion and judgment in using less than lethal munitions in accordance with this policy.

IX. Electronic Weapons

Only law enforcement officers who have successfully completed this agency's approved training shall be authorized to carry and use Electronic Weapons. Training shall be conducted annually, by a certified instructor.

A. Electronic Weapon Readiness

1. The Electronic Weapon will be carried in a manner consistent with agency policy and training.
2. The Electronic Weapon shall be carried fully armed with the safety on in preparation for immediate use.
3. Only agency approved battery power sources will be used in the Electronic Weapon.

4. No changes, alterations, modifications, or substitutions shall be made to an agency Electronic Weapon.
5. At the beginning of each tour of duty, officers shall perform a function check on the Electronic Weapon. The functions check shall be completed in a safe manner consistent with agency training. Any malfunctions with the Electronic Weapon shall be immediately reported to a supervisor. The defective Electronic Weapon shall immediately be placed out of service.
6. Only agency-approved cartridges shall be used.

B. Permitted Use of an Electronic Weapon

1. When physical force is justified against a suspect who is actively resisting arrest or exhibiting active aggression through words or actions towards an officer or a third party actually present. The suspect must pose an immediate threat to the officer or third party.
2. To incapacitate a person who poses a threat of physical injury to the officer/herself.
3. Against aggressive animals that pose a threat of physical injury to an officer or another person.
4. During agency authorized training programs or demonstrations.

C. Prohibited Use of an Electronic Weapon

1. Against a female who the officer knows or reasonably believes to be pregnant unless deadly force is justified.
2. Against a person who is at an elevated location where a fall could cause serious bodily injury or death, unless deadly force is justified.
3. Against an operator of a motor vehicle if the use of an Electronic Weapon could reasonably result in the uncontrolled movement of a vehicle, unless deadly force is justified.
4. Against a person who is near a flammable gas or a liquid.
5. In drive-stun or touch-stun mode as a prod or escort device.
6. To rouse an unconscious, impaired, or intoxicated person.
7. To experiment on a person or allow a person to experience the Electronic Weapon, even if the person requests it, when the use would not otherwise be allowed by this policy. This does not apply to voluntary training exposures or demonstrations as authorized by the CLEO on a case-by-case basis.
8. For any illegal purpose, e.g., coercion, torture, etc.

D. Deployment of an Electronic Weapon

1. As with all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for injury when using an electronic weapon against children, the elderly, persons of small stature irrespective of age, or those who the officer has reason to believe are pregnant, equipped with a pacemaker, or in obvious ill health.
2. Upon firing the device, the officer shall energize the subject the least number of times, and no longer than necessary to accomplish the legitimate operational objective. The electronic weapon shall not be energized without an observation period between firing cycles on any individual subject.
3. The subject should be secured as soon as practical while disabled by electronic control to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
4. In preparation for firing, the electronic weapon shall be pointed in a safe direction; The safety/power mechanism switched "on", and then aimed. Center mass of the subject's back should be the primary target where reasonably possible; front lower center mass, or the legs, are secondary targets.

5. Fixed sights should be used as the primary aiming device, and the laser dot as the secondary aiming device.
6. The device may also be used in certain circumstances in a “drive stun” mode. This involves pressing the unit against an appropriate area of the body based on training. It is important to note that when the device is used in this manner, it is:
 - a. Primarily a pain compliance tool due to a lack of probe spread.
7. The electronic weapon shall be pointed at the ground in a safe direction with the switch mechanism turned off during loading, unloading, or when handled in other than an operational deployment.
- E. All officers are to be aware of police canines being present on scene. Except in the most exigent circumstances, the electronic weapon shall not be deployed if a canine is being actively employed at the scene.
- F. Post Deployment Aid Given
 1. The electronic weapon probes may be removed from the subject by the officer after the subject is restrained following procedures outlined in training. Officers shall use universal precautions against potential biohazard contamination when removing darts from a person.
 2. Officers shall attempt to take photographs of the affected area **before and after** the probes are removed.
 3. All individuals who have been **incapacitated** by an electronic weapon shall be evaluated by EMS Personnel prior to being transported to jail. Officers shall take particular notice, and relay that specific information to treating medical personnel of any person who:
 - a. Does not appear to recover properly after being exposed to an electronic weapon.
 - b. Has been exposed to more than (3) three cycles.
 - c. Has had more than (1) one electronic weapon effectively used against him or her in any given incident,
 - d. Has been subjected to a continuous energy cycle of 15 seconds or more, or
 - e. Has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to electronic weapon exposure,
 - f. Received secondary injury as a result of falling, etc.
 4. The following persons shall be transported to a medical facility for evaluation and removal of probes following exposure to an electronic weapon. Any person who:
 - a. Requests medical attention for removal,
 - b. Is hit in a sensitive area (e.g., face, head, neck, female breast, groin, or barb embedded into bone),
 - c. From whom officers have difficulty removing the probes (owing to probe or barb separation),
 - d. Does not appear to recover properly after being exposed to an electronic control weapon.
 5. When the device has been used operationally, the officer shall collect and dispose of the spent cartridge, wire leads, and probes in a biohazard container using universal precautions.
 6. In the event of a device failure, the officer shall collect the cartridge, wire leads, and probes as evidence.

X. Reporting Use of Force

- A. Officers applying force as outlined above shall complete a Use of Force Report and submit it to their supervisor. The supervisor shall review the incident and if it appears the force applied was not appropriate, the supervisor shall conduct the necessary investigation and immediately notify the Chief Law Enforcement Officer. All reports must be completed prior to the end of shift. *(It should be noted that the dispatching of an injured animal does not constitute deadly force and does not require a Use of Force Report, but a Firearms Discharge Report or memorandum shall be forwarded to the Chain of Command for review and approval)* **MLEAP 6.03**

- B. All visible injuries to a suspect or an officer, whether or not the injuries are caused by the use of force, must be photographed. The photos must be attached to the Use of Force Report. If a person alleges an injury, but it is not visible to the officer, photograph the area that the person claims is injured. Document the allegation and the fact that no injury was visible.
- C. The officer who has used force in the incident shall complete all blank spaces on the Use of Force Report. The officer shall make a diligent attempt to obtain all information necessary to complete the report. If information remains unknown to the officer after such diligent attempt, the officer shall mark such space "unknown". The report shall include a description of the incident, the particular application of physical force, and first-aid or medical services rendered. The officer will attach a copy of the arrest report narrative to the Use of Force Report. Upon completion of the report, it shall be forwarded to the on-duty patrol supervisor. An officer who is a witness to a use of force must complete a supplement narrative and attach it to the original Use of Force report. The Use of Force Report must be completed and submitted to a supervisor by the end of the shift in which the force is used.
- D. The supervisor shall review the report for accuracy and detail and will approve the Use of Force Report. The report will be forwarded through the Chain of Command to the Chief Law Enforcement Officer for review and approval.
- E. After review of the report by the CLEO, if it is believed that the officer may have engaged in criminal conduct, the CLEO will notify the Office of the District Attorney or the Office of the Attorney General, and the Director of the Maine Criminal Justice Academy.

XI. Annual Review

- A. The CLEO or designee will maintain a file of all departmental Use of Force Reports and prepare an annual report on the use of force occurrences no later than January 31st of the following year. The report should identify any trends in the use of force by agency personnel, training needs, equipment needs, or policy revisions. **MLEAP 6.10**

PER ORDER OF: _____
Chief Executive Officer

ADVISORY

This Maine Chiefs of Police Association model policy is provided to assist your agency in the development of your own policies. All policies mandated by statute contained herein meet the standards as prescribed by the Board of Trustees of the Maine Criminal Justice Academy. Prior to implementation, it is recommended that this model policy be reviewed and that any changes necessary for your agency be incorporated. The watermark may be removed by going to page layout, click on watermark, and click on remove watermark.

*** DISCLAIMER ***

This model policy does not create a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this policy will only form the basis for administrative sanctions by the individual law enforcement agency and/or the Board of Trustees of the Maine Criminal Justice Academy. This policy does not hold the Maine Chiefs of Police Association, its employees or its members liable for any third-party claims and is not intended for use in any civil actions.

Any questions regarding the policy may be directed to the MCOPA Policy Committee.

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Chief Mark Leonard vzchief800@yahoo.com
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Appendix One

Situational Use of Force Options

Individual's Actions **Cooperative**

Officer's Options

- Professional Presence
- Verbal & Nonverbal
- Control Techniques

Individual's Actions **Passive Resistive**

Officer's Options

- Come-along Techniques
- Compliance Techniques

Individual's Actions **Active Resistive**

Officer's Options – Nondeadly Force

- Come-Along Techniques
- Compliance Techniques
- Strikes
- O/C Spray or Chemical Weapons
- Electronic Weapons
- Impact Weapons
- Police Canines
- Weapons of Availability

Individual's Actions **Assaultive/High Risk**

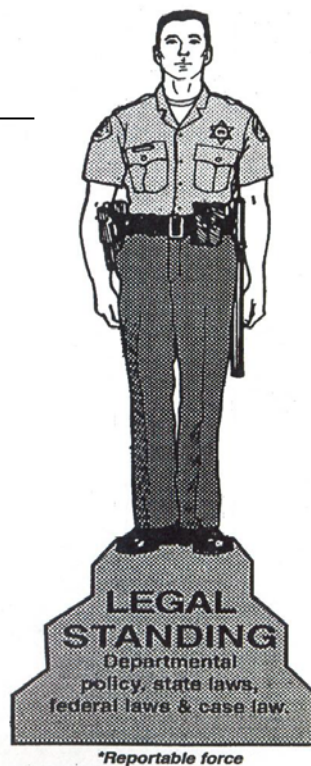
Officer's Options – Nondeadly Force

- Compliance Techniques
- Strikes
- O/C Spray or Chemical Agents
- Electronic Weapons
- Impact Weapons
- Police Canines
- Weapons of Availability

Individual's Actions **Life Threatening/Serious Bodily Injury**

Officer's Options – Deadly Force

- Firearms
- Impacting Vital Areas
- Other Incapacitating Force Methods
- Weapons of Availability



Appendix Two

Maine Criminal Justice Academy Board of Trustees Approved Less-Than-Lethal Munitions

Manufacturer: CTS – Combined Tactical Systems:

12 gauge – Fired from a 12-gauge shotgun:

1. CN, CS, OC Liquid & Powder Projectiles
2. .31 caliber Sting-Balls
3. Door Breaching
4. Super Sock Bean Bag

37mm, 38mm and/or 40mm Cartridges – Fired from a 37mm, 38mm or 40mm Launcher:

1. Pyrotechnic, smoke, single projectile
2. Pyrotechnic, smoke, three projectiles
3. Pyrotechnic, CN or CS, single projectile
4. Pyrotechnic, CN or CS, three projectiles
5. Powder or Liquid Barricade - CN, OC, CS Powder projectile
6. Heavy Barricade Projectile – CN, OC, CS Powder projectile
7. Muzzle Blast Projectile – CN, OC, CS
8. Kinetic Projectiles:
 - a. Foam baton
 - b. Rubber baton
 - c. .31 cal. Sting Balls
 - d. .60 cal. Sting Balls
 - e. Wood Baton
 - f. Super Sock Bean Bag
9. Pyrotechnic 40mm Cartridges – Smoke, CN or CS
10. Liquid Barricade Projectile 40mm cartridges – CN, CS or OC (Spin Stabilized)
11. Kinetic Projectile 40mm cartridges:
 - a. Sponge, Spin Stabilized
 - b. Foam Baton, Multi
 - c. .31 cal. Sting Balls
 - d. .60 cal. Sting Balls
 - e. Wood Baton, Multi
12. Powder Barricade Projectile 40mm cartridges:
 - a. CS or OC
13. Kinetic Projectile 4

Manufacturer: Def-Tec (Defense Technology):

12-gauge Projectiles:

1. Liquid Ferret – Non-pyrotechnic (Indoor use) OC, CS, CN
2. Powder Ferret – Non-pyrotechnic (Indoor use) OC, CS CN
3. Stinger – 32 cal. Stinger Rubber balls
4. Bean Bag rounds
5. Fin Stabilized – rubber fin stabilized
6. Drag Stabilized – Bean point of aim, point of impact round

37mm & 40mm Projectiles - Pyrotechnic (Outdoor use):

1. CN or CS Long Range (Speedheat)
2. CN or CS Short Range (Speedheat)
3. Colored Long Range (Speedheat) – smoke
4. Skat Shell – CN, or CS Multiple projectile
5. Flite Rite Heavy Duty Barricade – CN or CS

37mm & 40mm Projectiles – Non-Pyrotechnic (Indoor Use):

1. Muzzle Blast – Powder blast dispersion – OC, CN, CS
2. Liquid Ferret – Liquid barricade penetrator – OC, CN, CS
3. Powder Ferret – Powder barricade penetrator – OC, CN CS

37mm – Black Powder Rounds

1. Stinger – 32 cal. Rubber balls
2. Stinger – 60 cal. Rubber balls
3. Wood Baton
4. Rubber Baton
5. Foam Baton
6. Bean Bag

40mm – Smokeless Powder Rounds

1. Stinger – 32 cal. Rubber balls
2. Stinger – 60 cal. Rubber balls
3. Wood Baton
4. Foam Baton
5. Rubber Baton
6. Bean Bag
7. Sponge – Exact Impact Sponge Round

37/40mm – Smokeless Powder

1. Stinger – 32 cal. Rubber balls
2. Stinger – 60 cal. Rubber balls
3. Wood Baton
4. Foam Baton
5. Bean Bag

Manufacturer: Less-Lethal.com:

12-gauge Projectiles:

1. 2550 Single Rubber Baton
2. 2581 Sock

37mm Projectiles

1. 3581 Sock

Manufacturer: Alstechnology.com:

12-gauge Projectiles:

1. ALS 1200 Sock
2. ALS1212 Drag Sock

37mm Projectiles

1. ALS 3702 Sock
2. ALS 3704 Drag Sock

Manufacturer: Lightfield Less Lethal:

12-gauge Projectiles:

1. LSSR 12
2. LSLR 12
3. Mid-Range Rubber Slug
4. LERS 12
5. LSSR-HV



IAU #: _____

Case/CAD #: _____

**PORTLAND POLICE DEPARTMENT
COOPERATIVE RESOLUTION FORM**

I. General Information

A. Complainant's Name _____ Home Phone _____

Address _____ Bus. Phone _____

Email: _____ Cell Phone _____

Date of birth: _____ Gender: _____ Ethnicity: _____

B. Involved Officer(s) _____

C. Witnesses Name _____ Home/Cell Phone _____

Address: _____

D. Type of Incident (i.e., traffic stop, arrest, FI)

Location _____ Date/Time: _____

E. Documentation (i.e., report, accident report, CAD narrative)

Attached _____ yes _____ no Documentation Completed by _____ Date/Time _____

II. Complaint Information

A. Nature of Citizen's Complaint

B. Synopsis of Incident (by employee)_____

Command Staff Approval Granted By:

Name/Date/Time

Completed by: _____
Shift Commander

III. Resolution of Complaint

The complaint is resolved as follows:

The undersigned individual agrees that the mediation process has been explained to him/her, that he/she understands that the outcome of the mediation is final and that the police department will not conduct an internal affairs investigation of this matter.

Signature of Complainant

Date

Signature of Employee

Date

Signature of Shift Commander

Date

Nothing in this agreement should be construed as an admission of liability by any party or by the City or as a waiver of the City's immunity pursuant to the Maine Tort Claims Act.

Command Staff Review (initial/date):

Major_____

Commander_____

Asst. Chief_____

Chief_____

PSYCHOLOGIST'S CREDENTIALS AND BACKGROUND:

Name: Wendy N. Kjeldgaard

Degree: Doctor of Psychology (Psy.D.)

Years in practice: 14 (including training = 21)

Education: Washington and Lee University (BA, Psychology); Florida Institute of Technology (MS, Psy.D.).

Licensed Psychologist, State of Maine.

License: PS1238

Scope of practice: Post-conditional offer psychological evaluations, Fitness for Duty evaluations, Post-Officer Involved Shooting evaluations, Fitness to Return to Duty Evaluations, Promotional evaluations. Experience includes neuropsychological and educational evaluations, career counseling, training, teaching, supervision and group and individual psychotherapy.

CURRENT TEST BATTERY:

1). PERSONALITY ASSESSMENT INVENTORY (PAI): objective personality test. Found to do a good of screening out candidates (that is, at identifying personality characteristics/traits that render poorly suited to perform essential job functions in the public safety field). Designed to identify psychopathology as well as range of normal personality attributes. PAI public safety report has a series of "risk profiles" that indicate the probability that applicant has engaged in behaviors regarded as negative by most hiring authorities and likelihood that applicant would be viewed as poorly suited.

2). CALIFORNIA PSYCHOLOGICAL INVENTORY (CPI): objective personality test. Also found to be useful in identifying traits that may interfere with, or enhance, an applicant's effective performance of specific job functions. This suitability focus of the CPI accounts for its central role in formulating selection decisions because its scale content is directly relevant to job requirements.

3). WONDERLIC PERSONNEL TEST-REVISED (general reasoning) and BLOCK DESIGN (subtest of the adult IQ test, measure of non-verbal reasoning).

-It should be noted that candidates' scores and test profiles are compared against law enforcement norms as well as to general population norms.

4) REVIEW OF COLLATERAL INFORMATION/BACKGROUND INFORMATION/BIODATA

5). CLINICAL INTERVIEW

ASSESSMENT OF RISKS FOR AGGRESSION, AUTHORITARIANISM, JUDGMENTALNESS:

1). Negative patterns/components of test profiles and elevated scores on specific test scales:

a). PAI:

- Risk Factor statement: indicates the likelihood that the current applicant would be rated as “Poorly Suited” for the job by psychologists who have expertise in screening law enforcement candidates.
- Likelihood of negative behavioral history in job-relevant domain: the probability that applicant has engaged in problem behaviors in each of six categories: Job-related problems; Integrity problems; Anger management, alcohol use concerns, illegal drug use concerns, substance abuse proclivity.
- Critical Items: job applicants rarely endorse PAI items at critical levels. Information as to the total number of Critical Items endorsed at a level that indicate job-relevant concerns, associated percentile value (when compared to the law enforcement applicant normative sample) and the interpretive range (below, average, above-average) are provided.

Specific scales relevant to aggression/bias/etc:

- Antisocial Features: egocentrism, lack of empathy and loyalty, good at identifying problem behaviors such as excessive citizen complaints, insubordination, neglect of duty, termination for cause.
- Aggression: characteristics/attitudes related to anger, assertiveness, hostility, aggression; associated with a number of negative performance characteristic such as insubordination and citizen complaints.
- Dominance: measures extent to which a person is controlling and independent in interpersonal relationships.

b). CPI:

- Report includes series of risk statements about the applicant’s likelihood of being rated as “poorly suited” for the job being applied to, by psychologists with expertise in public safety selection; and the applicant’s likelihood of exhibiting negative behaviors that are relevant to the job (such as inadequate anger management skills or poor job performance).
- Review of Selection-relevant CPI items. These items are associated with substandard performance on three or some job function categories (self-initiative/motivation, following rules and regulations, interpersonal skills/relationships with co-workers and the public, self-control, assertiveness).
- Indicators of essential job functions and job performance problems: Lists scale/subscales that are significantly correlated with ratings of performance on a specific job functions or problem area AND applicant's score differs by at least one standard deviation from public safety job applicants.

Test scales related to aggression/bias, etc:

- Capacity for status: poise, self-confidence, verbal fluency, wit, ambition, optimism. Very high = entitlement, self-satisfaction, morality gone awry.
- Independence: too high suggests indifference to opinions of others, unwilling to compromise.

- Self-acceptance: too high suggests are narcissistic and egoistic.
- Socialization: automatized/friction-free compliance with rules/conventions of culture; very high = too much conformity, even with unduly constraining/inhibitory conventions, can be harsh and punitive.
- Self-realization: Self-concept of doubt, low self-esteem, frustrations to inner harmony, good level of self-actualization, psychological competence. Low scores: narrow in interests, cold, intolerant, resentful, prejudiced, suspicious.

Certain test patterns/profiles also associated with performance problems. E.g., below-avg on Responsibility and Socialization and elevated on Self-Control: undue suppression of impulse, lack of insight re: aggressive feelings, potential for explosive break-through of behavior.

2). Positive findings from the tests: ((want to ensure that applicants possess certain qualities that will enable them to function effectively and to establish good relationships with citizens):

a). PAI:

- Warmth: extent to which person is interested in supportive/empathic interpersonal relationships (warm and outgoing versus cold and rejecting).
- Interpersonal style: well-balanced in assertiveness, friendliness, concern for others

b). CPI

- Empathy
- Sociability
- Tolerance: tolerant, accept others and accept different points of view, intelligent, realistic, stable. Low = intolerance, doubt about others and distrust, tendency to seek retribution.
- Psychological-mindedness: perceptive, creative, verbally fluent. Low = unambitious, ill at ease socially, wedded to routine, conventional, rely on devious methods of coping.
- Flexibility

3). Review of background materials/documents supplied to the evaluator (e.g., background investigation, polygraph report, verbal communication with department staff in advance of the evaluation): Done in part for the purpose of identifying the presence of specific biodata found to be associated with risk for poor performance, which includes violation of laws/rules, untruthfulness on background information provided, poor financial history, poor employment history, history of at-fault accidents.

4). Information related to aggression, anger-management, bias, interpersonal functioning obtained during the interview:

- a). Exploration of any concerning biodata revealed in background documents.
- b). Discussion and specific examples of how candidates resolve conflicts, deescalate situations, build rapport with people.
- c). Awareness of the demographics of Portland. Assessment of knowledge of the presence of various refugee and asylee populations, people of color, homeless individuals, people with significant mental health problems.

- d). Discussion of candidate's experience with dealing with people of diverse backgrounds and how much exposure candidate has had to non-Caucasian people who are not from Maine.
- e). Exploration of candidate's views on how to communicate effectively and build rapport with citizens when there are language/cultural barriers.
- f). Assessment of perception of critiques of police and protests and what police may need to do differently.
- g). Discussion of how to cope with or interact effectively with citizens who dislike or do not trust police.
- h). Discussion on candidate's understanding and view of community policing and willingness to engage in CP activities.
- i). Review of Critical Items endorsed on the tests to accrue more information about items endorsed that could indicate risk for job performance problems.

**INFORMATION ABOUT A TEST THAT COULD BE USED IN ADDITION TO THE
CURRENT BATTERY: CANDIDATE AND OFFICER PERSONNEL SURVEY-
REVISED (COPS-R)**

- 240-item, true/false, self-report measure (takes about 35 minutes to complete) that was developed as an evaluation tool both for individuals seeking employment or promotion as public safety officers, and for officers who have been identified by their jurisdiction for further evaluation because of problematic behavior.
- Questions are based upon research findings and / or clinical experience that certain life history characteristics are associated with later success or problems in the public safety field. These factors are combined in a computer program to reach an overall prediction rating of likely success as a law enforcement officer (ranging from very poor to outstanding)
- Has been used as part of a battery of instruments for the prediction of job performance by public safety candidates for more than 20 years (to more than 40,000 individuals in the US).
- Generates 31 scales that reflect response bias and positive and negative prediction of work performance.
- Shown to have adequate reliability, concurrent validity, and predictive validity in the selection of public safety candidates.

SCALES:

VALIDITY INDICES: two scales, assess attempt at impression management

POSITIVE DESCRIPTOR SCALES: Success (items predictive of success); Social Adjustment (social adjustment and conformity to social norms); Motivation (leadership and ambition); Seriousness/Self-Discipline (self-discipline and self-direction).

NEGATIVE DESCRIPTOR SCALES: Substance abuse; **Paranoid Orientation (suspiciousness about others and their motivations)**; **Gender Bias**; Personality Problems (presence of various mental health issues); Depression; **Bias (racial bias and belief in stereotypes)**; **Authoritarianism (rigidity and judgmental tendencies)**; Impulsivity; Negative Work Attitudes; **Aggression (evidence of aggressive tendencies)**; **Lack of Integrity**; Antisocial Activities; Family of Origin Conflicts; Poor Life Management; Opinionated; Worry.

EMPIRICALLY-DERIVED RISK-LEVEL SCALES: Overall Prediction (weighted combination of best success predictors), Relations with Coworkers, Honesty and Integrity, Judgment, Productivity, **Relations with Public**, Rules Compliance, Use of Sick Time, Acceptance of Supervision

NATIONAL
CONSENSUS
POLICY AND
DISCUSSION
PAPER ON USE OF
FORCE

October 2017



POLICY

This National Consensus Policy on Use of Force is a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States (see back panel for list). The policy reflects the best thinking of all consensus organizations and is solely intended to serve as a template for law enforcement agencies to compare and enhance their existing policies.

I. PURPOSE

The purpose of this policy is to provide law enforcement officers with guidelines for the use of less-lethal and deadly force.

II. POLICY

It is the policy of this law enforcement agency to value and preserve human life. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.

The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”

In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”¹

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

III. DEFINITIONS

DEADLY FORCE: Any use of force that creates a substantial risk of causing death or serious bodily injury.

LESS-LETHAL FORCE: Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

OBJECTIVELY REASONABLE: The determination that the necessity for using force and the level of force used is based upon the officer’s evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

SERIOUS BODILY INJURY: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

DE-ESCALATION: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

EXIGENT CIRCUMSTANCES: Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical

1 *Graham v. Connor*, 490 U.S. 386 (1989).

2 Based on the definition from *United States v. McConney*, 728 F.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.²

CHOKE HOLD: A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation. This does not include vascular neck restraints.

WARNING SHOT: Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

IV. PROCEDURES

A. General Provisions

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.
3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
4. An officer has a duty to intervene to prevent or stop the use of excessive force by another officer when it is safe and reasonable to do so.
5. All uses of force shall be documented and investigated pursuant to this agency's policies.

B. De-escalation

1. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

C. Use of Less-Lethal Force

When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved, less-lethal force techniques and issued equipment

1. to protect the officer or others from immediate physical harm,
2. to restrain or subdue an individual who is actively resisting or evading arrest, or
3. to bring an unlawful situation safely and effectively under control.

D. Use of Deadly Force

1. An officer is authorized to use deadly force when it is objectively reasonable under the totality of the circumstances. Use of deadly force is justified when one or both of the following apply:
 - a. to protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury
 - b. to prevent the escape of a fleeing subject when the officer has probable

cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended

2. Where feasible, the officer shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.³

3. Deadly Force Restrictions

a. Deadly force should not be used against persons whose actions are a threat only to themselves or property.

b. Warning shots are inherently dangerous. Therefore, a warning shot must have a defined target and shall not be fired unless

(1) the use of deadly force is justified;

(2) the warning shot will not pose a substantial risk of injury or death to the officer or others; and

(3) the officer reasonably believes that the warning shot will reduce the possibility that deadly force will have to be used.

c. Firearms shall not be discharged at a moving vehicle unless

(1) a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or

(2) the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.

d. Firearms shall not be discharged from a moving vehicle except in exigent circumstances. In these situations, an officer must have an articulable reason for this use of deadly force.

e. Choke holds are prohibited unless deadly force is authorized.⁴

E. Training

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.

2. In addition, training shall be provided on a regular and periodic basis and designed to

a. provide techniques for the use of and reinforce the importance of de-escalation;

b. simulate actual shooting situations and conditions; and

c. enhance officers' discretion and judgment in using less-lethal and deadly force in accordance with this policy.

3. All use-of-force training shall be documented.

³ *Tennessee v. Garner*, 471 U.S. 1 (1985).

⁴ Note this prohibition does not include the use of vascular neck restraints.

Every effort has been made to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "sample" policy can meet all the needs of any given law enforcement agency.

Each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered, and should therefore consult its legal advisor before implementing any policy.

DISCUSSION PAPER

This *Discussion Paper on the National Consensus Use of Force Policy* is a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States. The paper reflects the best thinking of all Consensus organizations and is intended to provide background information for law enforcement agencies to consider when implementing the *National Consensus Policy on Use of Force* in their own agencies.

I. INTRODUCTION

Managing uses of force by officers is one of the most difficult challenges facing law enforcement agencies. The ability of law enforcement officers to enforce the law, protect the public, and guard their own safety and that of innocent bystanders is very challenging. Interactions with uncooperative subjects who are physically resistant present extraordinary situations that may quickly escalate. Ideally, an officer is able to gain cooperation in such situations through the use of verbal persuasion and other de-escalation skills. However, if physical force is necessary, an officer's use of force to gain control and compliance of subjects in these and other circumstances must be objectively reasonable.

While the public generally associates law enforcement use of force with the discharge of a firearm, use of force includes a much wider range of compliance techniques and equipment. These less intrusive, but more common uses of force may range from hand control procedures to electronic control weapons, pepper aerosol spray, or various other equipment and tactics.

A. National Consensus Policy on Use of Force

In recognition of the increased focus on law enforcement use of force, in April 2016, the International Association of Chiefs of Police and the Fraternal Order of Police convened a symposium to discuss the current state of policing, in general, and use of force, in particular, inviting several of the leading law enforcement leadership and labor organizations to attend. The United States Supreme Court has provided clear parameters regarding the use of force. However, how this guidance is

operationalized in the policies of individual law enforcement agencies varies greatly. This creates a landscape where each agency, even neighboring jurisdictions, are potentially operating under differing, inconsistent, or varied policies when it comes to the most critical of topics.

Symposium members decided to address these disparities by creating a policy document on use of force that can be used by all law enforcement agencies across the country. The goal of this undertaking was to synthesize the views of the participating organizations into one consensus document that agencies could then use to draft or enhance their existing policies. The final product, the *National Consensus Policy on Use of Force* (*Consensus Policy*), was published in January 2017.

The *Consensus Policy* incorporates the most current information and contemporary professional judgment and is designed to provide a framework of critical issues and suggested practices from which agencies can develop their own use-of-force policies. *It is not intended to be a national standard by which all agencies are held accountable, and agencies are not required to institute the Consensus Policy.*

Rather, chief executives should use the document as a guideline, while taking into account the specific needs of their agencies, to include relevant court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements. Many chief executives might wish to make their own policies more restrictive than the *Consensus Policy*. As with any policy, before implementing these suggested guidelines, agencies should consult their legal advisors.

This paper is designed to accompany the *Consensus Policy* and provide essential background material and supporting documentation to promote greater understanding of the developmental philosophy and implementation guidelines for the *Consensus Policy*. Chief executives should use the information contained herein to better inform their decisions on whether to implement the various directives found in the *Consensus Policy* in their own agencies.

B. Scope of Policy

Law enforcement agencies must provide officers with clear and concise policies that establish well-defined guidelines on the use of force. It is essential that officers have a complete understanding of agency policy on this critical issue, regularly reinforced through training. Therefore, a use-of-force policy should be concise and reflect clear constitutional guidance to adequately guide officer decision making. Policies that are overly detailed and complex are difficult for officers to remember and implement and, as such, they create a paradox. While they give officers more detailed guidance, they can also complicate the ability of officers to make decisions in critical situations when quick action and discretion are imperative to successful resolutions. The *Consensus Policy* is purposefully short and provides the necessary overarching guidelines in a succinct manner, while restricting force in certain situations.

Some agencies may choose to develop separate policies on less-lethal versus deadly force. However, law enforcement use of both deadly and less-lethal force is governed by the same legal principles and, therefore, the *Consensus Policy* elects to address the entire spectrum of force in one document. While the development of individual policies on the use of specialized force equipment is a prudent approach, the legal grounds for selection and application of any force option applied against a subject should be based on the same legal principles cited in the *Consensus Policy*.

It is also not the intended scope of either the *Consensus Policy*, or this discussion document, to

address issues relating to reporting use-of-force incidents; training of officers in the handling, maintenance, and use of weapons; investigation of officer-involved shooting incidents; officer post-shooting trauma response; and early warning systems to identify potential personnel problems. Instead, agencies are urged to develop separate policies addressing each of these topics.

II. Legal Considerations

Use of force may have potential civil and criminal consequences in state or federal courts or both. As scores of these actions have demonstrated, the scope and the wording of agency policy can be crucial to the final resolution of such cases. It should be emphasized that liability can arise for an involved officer; the law enforcement agency; agency administrator(s); and the governing jurisdiction.

At a minimum, agency policy must meet state and federal court requirements and limitations on the use of force, with the U.S. Constitution forming the baseline for the establishment of rights. While states cannot take away or diminish rights under the U.S. Constitution, they can, and often do, expand upon those rights. In such cases, law enforcement administrators must establish an agency policy that meets the more stringent use-of-force guidelines of their state constitution and statutory or case law interpreting those provisions. It is strongly recommended that this and other policies undergo informed, professional legal review before they are sanctioned by the agency.

A. Use of Policy in Court

Courts vary as to whether agency policy can be introduced and carry the same weight as statutory law. However, in some cases, it may be permissible to introduce at trial the issue of officer noncompliance for whatever weight and significance a jury feels appropriate. Law enforcement administrators should develop strong and definitive policies and procedures without fear that they might prove prejudicial to a future court assessment of an officer's conduct. In fact, by adopting a use-

of-force policy in clear and unequivocal terms, agencies can prevent more serious consequences for themselves, their officers, and their jurisdiction.

B. Federal Guidelines for Use of Force

There are two landmark decisions by the United States Supreme Court that guide law enforcement use of force: *Tennessee v. Garner* and *Graham v. Connor*.¹ Following is a brief review of each case.

Tennessee v. Garner. In *Garner*, a Memphis, Tennessee, police officer, acting in conformance with state law, shot and killed an unarmed youth fleeing over a fence at night in the backyard of a house he was suspected of burglarizing. The court held that the officer's action was unconstitutional under 42 U.S.C. 1983, stating that "such force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others."²

The court ruled that apprehension by the use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement. Thus, even where an officer has probable cause to arrest someone, it may be unreasonable to do so through the use of deadly force.

Graham v. Connor. In *Graham*, a diabetic man seeking to counter the effects of an insulin reaction entered a convenience store with the intent of purchasing some orange juice. After seeing the line of people ahead of him, Graham quickly left the store and decided instead to go to a friend's house. An officer at the store, Connor, determined Graham's behavior to be suspicious and proceeded to follow and then stop the car in which Graham was a passenger. Graham was subsequently handcuffed and received multiple injuries, despite attempts to inform Connor and the other responding officers of his medical condition. Graham was released once Connor confirmed that

no crime had been committed in the store, but later filed suit alleging excessive use of force.

The court ruled that claims of law enforcement excessive use of force must be analyzed using an "objective reasonableness" standard. Specifically, the court stated "[t]he Fourth Amendment 'reasonableness' inquiry is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation."³

C. Defining a Reasonable Use of Force

The potential of civil or criminal litigation involving deadly force incidents also necessitates close scrutiny of the language employed in a use-of-force policy by legal authorities. Law enforcement administrators should work closely with knowledgeable attorneys in determining the suitability of the use-of-force policy to their local requirements, needs, and perspectives. Deliberation over phrasing or word usage might seem inconsequential or excessive, but such terms can, and do, have significant consequences in a litigation context.

The use of commonly employed terms and phrases, even though well intentioned, can cause unexpected and unnecessary consequences for the officer and the agency. For example, phrases like "officers shall exhaust all means before resorting to the use of deadly force" present obstacles to effective defense of legitimate and justifiable uses of force. Such language in a policy can unintentionally impose burdens on officers above those required by law.

1 *Tennessee v. Garner*, 471 U.S. 1 (1985); *Graham v. Connor*, 490 U.S. 386 (1989).

2 *Garner*, 471 U.S. 1.

3 *Graham*, 490 U.S. at 396–397.

The foregoing discussion is not meant to suggest that law enforcement agency policy must be established only with potential litigation in mind. On the contrary, law enforcement administrators should use language that properly guides officers' decision-making consistent with agency goals and values while also protecting the officer, the agency, and the community from unnecessary litigation. There is value in using verbiage from statutes, case law, and regulations in policy as a means of providing officers with clearer guidance.

Training should effectively translate the general guiding principles of agency policy and operational procedures into real-world scenarios through understanding and practice. Training shares an equal importance in agency efforts to control and manage the use of force and, as such, can have a significant impact on an agency's efforts to defend the use of force in court or other contexts.

III. Overview

A. Guiding Principles

It should be the foremost policy of all law enforcement agencies to value and preserve human life. As guardians of their communities, officers must make it their top priority to protect both themselves and the people they serve from danger, while enforcing the laws of the jurisdiction. However, there are situations where the use of force is unavoidable. In these instances, officers must "use only the amount of force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others."⁴ Introduced in *Graham*, the "objectively reasonable" standard establishes the necessity for the use and level of force to be based on the individual officer's evaluation of the situation considering the totality of the circumstances.⁵ This evaluation as to whether or not force is justified is based on what was reasonably believed by the officer, to include what information

others communicated to the officer, *at the time the force was used* and "upon what a reasonably prudent officer would use under the same or similar circumstances." This standard is not intended to be an analysis after the incident has ended of circumstances not known to the officer at the time the force was utilized.

The totality of the circumstances can include, but is not limited to, the immediate threat to the safety of the officer or others; whether the subject is actively resisting; the time available for the officer to make decisions in circumstances that are tense, uncertain, and rapidly evolving; the seriousness of the crime(s) involved; and whether the subject is attempting to evade or escape and the danger the subject poses to the community. Other factors may include prior law enforcement contacts with the subject or location; the number of officers versus the number of subjects; age, size, and relative strength of the subject versus the officer; specialized knowledge skill or abilities of the officer; injury or level of exhaustion of the officer; whether the subject appears to be affected by mental illness or under the influence of alcohol or other drugs; environmental factors such as lighting, terrain, radio communications, and crowd-related issues; and the subject's proximity to potential weapons.

The decision to employ any force, including the use of firearms, may be considered excessive by law and agency policy or both, if it knowingly exceeded a degree of force that reasonably appeared necessary based on the specific situation. It is important to note that in *Graham*, the U.S. Supreme Court recognized that law enforcement officers do not need to use the minimum amount of force in any given situation; rather, the officer must use a force option that is reasonable based upon the totality of the circumstances known to the officer at the time the force was used. Use-of-force decisions are made under exceedingly varied scenarios and often on a split-second basis. Based on this fact,

4 ASCIA, CALEA, FOP, FLEOA, IACP, HAPCOA, IADLEST, NAPO, NAWLEE, NOBLE, and NTOA, *National Consensus Policy on Use of Force*, January 2017, 2, http://www.theiacp.org/Portals/0/documents/pdfs/National_Consensus_Policy_On_Use_Of_Force.pdf.

5 *Graham*, 490 U.S. at 396.

state and federal courts have recognized that law enforcement officers must be provided with the necessary knowledge and training to make such decisions, in addition to attaining proficiency with firearms and other less-lethal force equipment and force techniques that may be used in the line of duty.

B. De-Escalation

De-escalation is defined as “taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary.”⁶ The term de-escalation can be viewed as both an overarching philosophy that encourages officers to constantly reassess each situation to determine what options are available to effectively respond, as well as the grouping of techniques designed to achieve this goal. In most instances, the goal of de-escalation is to slow down the situation so that the subject can be guided toward a course of action that will not necessitate the use of force, reduce the level of force necessary, allow time for additional personnel or resources to arrive, or all three.

De-escalation is not a new concept and has been part of officer training for decades. Historically, de-escalation has been employed when officers respond to calls involving a person affected by mental illness or under the influence of alcohol or other drugs. In these situations, an officer is instructed to approach the individual in a calm manner and remain composed while trying to establish trust and rapport. Responders are taught to speak in low, or nonthreatening tones, and use positive statements such as “I want to help you” intended to aid in the process of calming the subject. Awareness of body language is also significant. For example, standing too close to an angry or agitated person might cause them to feel threatened.

Another de-escalation technique is tactical repositioning. In many cases, officers can move to another location that lessens the level of danger. An example is an incident involving an individual with a knife. By increasing the distance from the individual, officers greatly reduce the risk to their safety and can explore additional options before resorting to a use of force, notwithstanding the need to control the threat to others.

Many of these steps—speaking calmly, positioning oneself in a nonthreatening manner, and establishing rapport through the acknowledgment of what the person is feeling—are easily transferred from Crisis Intervention Training for persons affected by mental illness to de-escalation encounters with people in general. While these tactics are recommended steps, officers must continually reassess each situation with the understanding that force may be necessary if de-escalation techniques are not effective.

One concern with de-escalation is that it can place officers in unnecessary danger. By overemphasizing the importance of de-escalation, officers might hesitate to use physical force when appropriate, thereby potentially resulting in an increase in line-of-duty deaths and injuries. Consequently, it should be stressed that de-escalation is not appropriate in every situation and officers are not required to use these techniques in every instance. If the individual poses a threat of injury or death to the officer or another, the officer must be permitted to use the level of force necessary to reasonably resolve the situation.

Agencies should strive to encourage officers to consider how time, distance, positioning, and especially communication skills may be used to their advantage as de-escalation techniques and as potential alternatives to force and to provide training on identifying when these techniques will be most useful to mitigate the need for force.

6 *National Consensus Policy on Use of Force*, 2.

C. Force Models

The variety of compliance options available to law enforcement officers in a confrontational setting can be referred to as a force model. Using the variety of different options found in this model, officers are expected to employ only a degree of force that is objectively reasonable to gain control and compliance of subjects. Some agencies may refer to this as the use-of-force continuum. However, the use of the term “continuum” is often interpreted to mean that an officer must begin at one end of a range of use-of-force options and then systematically work his or her way through the types of force that follow on the continuum, such as less-lethal force options, before finally resorting to deadly force. In reality, to maintain the safety of both the officer and others, an officer might need to transition from one point on the continuum to another, without considering the options in between in a linear order. For instance, when faced with a deadly threat, it is not prudent to expect an officer to first employ compliance techniques, followed by an electronic control weapon, and only then use his or her firearm. For this reason, the use of a continuum is strongly discouraged. Instead, force models are preferred that allow officers to choose a level of force that is based on legal principles, to include the option of immediately resorting to deadly force where reasonable and necessary.

As noted previously, many law enforcement agencies prefer to develop separate less-lethal and deadly force policies. In addition to the comments previously made on this topic, there are several other reasons why the *Consensus Policy* combines these into a single use of force policy. But perhaps most importantly, integrating both deadly and less-lethal force guidelines into one policy serves to illustrate and reinforce for the officer the concept of the use of force as an integrated, or response, model. By placing both sets of guidelines under one heading, an officer consulting the policy is

encouraged to view force on a broader, more integrated conceptual basis.

Effective guidance for law enforcement officers on use of force, whether with firearms or by other means or tactics, must recognize and deal with force in all its forms and applications and with the officer’s ability to adjust his or her response as the subject’s behavior changes.

Whether an agency chooses to adopt a force model or continuum, the various levels of force must be defined and the guidelines for their use must be clearly outlined in agency policy and reinforced by training. Policies must also enumerate and address all force options permitted by the agency. Per the *Consensus Policy*, these levels should include less-lethal force and deadly force.

D. Defining Deadly and Less-Lethal Force

The *Consensus Policy* employs the terms deadly force and less-lethal force. Deadly force is defined as “any use of force that creates a substantial risk of causing death or serious bodily injury.”⁷ The most common example of deadly force is the use of a handgun or other firearm.

Less-lethal force is “any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.”⁸ This includes, but is not limited to, an officer’s use of come-along holds and manual restraint, as well as force options such as electronic control weapons, pepper aerosol spray, and impact projectiles. It does not include verbal commands or other nonphysical de-escalation techniques.

The difference between deadly and less-lethal force is not determined simply by the nature of the force technique or instrument that is employed by an officer. Many force options have the potential to result in the death or serious bodily injury of a

7 *National Consensus Policy on Use of Force*, 2.

8 *Ibid.*

subject under certain circumstances. For example, a police baton, if used properly in accordance with professionally accepted training guidelines, is not likely to cause death. But it can result in the death of subjects when used inappropriately by an officer who lacks training, or in situations where blows are accidentally struck to the head or other vulnerable area of the body. The same could be said for a variety of other equipment used by law enforcement officers. Therefore, a key to understanding what separates deadly force from less-lethal force has to do with the likelihood that a given use of force will result in death, whether it involves a handgun or other weapon or even an object that may be close at hand.

Use of force that is likely to cause death or serious bodily injury is properly judged using a reasonable officer standard—how would a reasonably prudent law enforcement officer act under the same or similar circumstances?⁹ This standard is an objective test. That is, it is not based on the intent or motivation of the officer or other subjective factors at the time of the incident. It is based solely on the objective circumstances of the event and the conclusion that would be drawn by a “reasonable officer on the scene.”¹⁰

In determining the proper degree of force to use, officers are authorized to use deadly force to protect themselves or others from what is reasonably believed to be a threat of death or serious bodily harm. Officers have the option of using less-lethal force options where deadly force is not authorized, but may use only that level of force that is objectively reasonable to bring the incident under control.

E. Additional Definitions

Understanding of additional terms is helpful for the following discussion.

Exigent circumstances are “those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.”¹¹

An *immediate*, or *imminent*, *threat* can be described as danger from an individual whose apparent intent is to inflict serious bodily injury or death and the individual has the ability and opportunity to realize this intention.

IV. PROCEDURES

A. General Provisions

The *Consensus Policy* begins by providing general guidance that holds true for all situations involving the use of force. First, officers must continually reassess the situation, where possible, and ensure that the level of force being used meets the objective reasonableness standard. In situations where the subject either ceases to resist or the incident has been effectively brought under control, the use of physical force should be reduced accordingly. If the level of force exceeds what is necessary to control a subject, then the officer can be subject to allegations of excessive force.

Physical force should not be used against individuals in restraints unless failure to do so would result in the individual fleeing the scene or causing imminent bodily injury to himself or herself, the officer, or another person. Damage to property should not be considered a valid reason to use force against an individual in restraints. There might also be instances where handcuffed individuals are able to run from officers in an attempt to escape. In these situations, physical force may be allowable per policy, but only the minimal amount of force

⁹ Serious bodily injury is defined as “injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.”

¹⁰ *Connor*, 490 U.S. at 396.

¹¹ Based on the definition from *United States v. McConney*, 728 F.2d 1195, 1199 (9th Cir.), cert. denied, 469 U.S. 824 (1984).

necessary to control the situation should be used—deadly force will almost always be prohibited in these cases.

As previously stated, the ultimate goal of law enforcement officers is to value and preserve human life. Therefore, the *Consensus Policy* requires officers to provide medical care to anyone who is visibly injured, complains of injury, or requests medical attention.¹² This should be undertaken after the officers have ensured that the scene is safe and it is practical to do so. In addition, officers should only provide care consistent with their training, to include providing first aid. Additional appropriate responses include requesting emergency medical services and arranging for transportation to an emergency medical facility.

When verbal commands are issued, the individual should be provided with a reasonable amount of time and opportunity to respond before force is used, with the understanding that such a pause should not “compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime.”¹³ This is to prevent instances where officers use force immediately following a verbal command without providing the subject with an opportunity to comply and might also apply in such situations where an electronic control weapon is used and the individual is physically incapable of responding due to the effects of the weapon.

While the *Consensus Policy* strives to prohibit excessive force, the reality is that excessive force can occur no matter how well-crafted the policy or extensive the training. In these situations, it is crucial that other officers at the scene intervene to prevent or stop the use of excessive force. By requiring a pro-active approach to these situations and encouraging accountability for all officers on the scene, agencies can work toward preventing excessive uses of force.

Finally, while it is not the scope of the *Consensus Policy* or this document to provide specific guidelines on these topics, agencies must develop comprehensive policies for documenting, investigating, and reviewing all uses of force. Agency transparency to the public regarding these policies will help to foster public trust and assure the community that agencies are aware of and properly responding to use of force by their officers. Moreover, force review will help to assure that agency policies are being followed and will give the agency the opportunity to proactively address deficiencies in officer performance or agency policy and training or both.

B. De-Escalation

Procedurally, whenever possible and appropriate, officers should utilize de-escalation techniques consistent with their training before resorting to using force or to reduce the need for force. In many instances, these steps will allow officers additional time to assess the situation, request additional resources, and better formulate an appropriate response to the resistant individual, to include the use of communication skills in an attempt to diffuse the situation. However, as previously stated, de-escalation will not always be appropriate and officers should not place themselves or others in danger by delaying the use of less-lethal or even deadly force where warranted.

C. Less-Lethal Force

In situations where de-escalation techniques are either ineffective or inappropriate, and there is a need to control a noncompliant or actively resistant individual, officers should consider the use of less-lethal force. In these cases, officers should utilize only those less-lethal techniques or weapons the agency has authorized and with which the officer has been trained. As with any force, officers may

¹² Note that “providing medical care” does not necessarily require that the officer administer the care himself or herself. In some situations, this requirement may be satisfied by securing the skills and services of a colleague, emergency medical personnel, etc.

¹³ *National Consensus Policy on Use of Force*, 3.

use only that level of force that is objectively reasonable to bring the incident under control. Specifically, the *Consensus Policy* outlines three instances where less-lethal force is justified. These include “(1) to protect the officer or others from immediate physical harm, (2) to restrain or subdue an individual who is actively resisting or evading arrest, or (3) to bring an unlawful situation safely and effectively under control.”¹⁴

As noted in the prior discussion of the force model, use of force can range widely. Therefore, law enforcement officers should have at their disposal a variety of equipment and techniques that will allow them to respond appropriately to resistant or dangerous individuals. The *Consensus Policy* does not advocate the use of any specific less-lethal force weapons. Instead, the appropriateness of any such weapon depends on the goals and objectives of each law enforcement agency in the context of community expectations. Less-lethal weapons and techniques are being continuously introduced, refined, and updated, so law enforcement administrators must routinely assess current options and select equipment that is appropriate for their agency. A critical element of that decision-making process is an assessment of the limitations of each device or technique, and environmental factors that might impact its effectiveness. However, it is suggested that law enforcement agencies ban the use of several types of less-lethal impact weapons that are designed to inflict pain rather than affect control. These include slapjacks, blackjacks, brass knuckles, nunchucks, and other martial arts weapons.

D. Deadly Force

Authorized Uses of Deadly Force. As with all uses of force, when using deadly force, the overarching guideline that applies to *all* situations is that the force must be “objectively reasonable under the totality of the circumstances.” The *Consensus Policy* identifies two general circumstances in which the use of deadly force may be warranted. The first instance is to “protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury.”¹⁵ Second, law enforcement officers may use deadly force “to prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.”¹⁶ In such cases, a threat of further violence, serious bodily injury, or death must impose clear justification to use deadly force.

For example, use of deadly force would be justified in instances where an officer attempts to stop the escape of a fleeing violent felon whom the officer has identified as one who has just committed a homicide, and who is armed or is likely to be armed in light of the crime. However, the potential escape of nonviolent subjects does not pose the same degree of risk to the public or the officer, and use of deadly force to prevent his or her escape would not be justifiable under the *Consensus Policy*.

If a decision has been made to employ deadly force, a law enforcement officer must, whenever feasible, identify himself or herself, warn the subject of his or her intent to use deadly force, and demand that the subject stop. This requirement was made clear

¹⁴ *National Consensus Policy on Use of Force*, 3.

¹⁵ *National Consensus Policy on Use of Force*.

¹⁶ *Ibid*.

in the Garner decision. If issuing a verbal warning presents a heightened risk to the safety of the officer or another person, the officer may employ deadly force without delay.

Deadly Force Restrictions. Deadly force is prohibited when the threat is only to property. In addition, officers should avoid using deadly force to stop individuals who are only a threat to themselves, unless the individual is using a deadly weapon such as a firearm or explosive device that may pose an imminent risk to the officer or others in close proximity. If the individual is attempting to inflict self-harm with means other than a deadly weapon, the officer should consider less-lethal options and de-escalation techniques, if practical.

Warning Shots. Perhaps the most debated inclusion in the *Consensus Policy* is the allowance for warning shots. Their inclusion in the *Consensus Policy* should not prevent an agency from establishing a more restrictive policy on the topic. Defined as “discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury,” warning shots are inherently dangerous.¹⁷ However, the *Consensus Policy* outlines very strict guidelines for their use in an effort to address this threat, while still providing latitude for officers to use this technique as a viable alternative to direct deadly force in extreme and exigent circumstances. The *Consensus Policy* states that warning shots must have a defined target, with the goal of prohibiting shots fired straight up in the air. In addition, warning shots should only be considered if deadly force is justified, so in response to an immediate threat of death or serious bodily injury, and when “the officer reasonably believes that the warning shot will reduce the possibility that deadly force will have to be used.”¹⁸ Finally, the warning shot must not “pose a substantial risk of injury or death to the officer or others.”¹⁹

Essentially, the intent of the *Consensus Policy* is to provide officers with an alternative to deadly force in the very limited situations where these conditions are met.

Shots Discharged at Moving Vehicles.²⁰ The use of firearms under such conditions often presents an unacceptable risk to innocent bystanders. Even if successfully disabled, the vehicle might continue under its own power or momentum for some distance thus creating another hazard. Moreover, should the driver be wounded or killed by shots fired, the vehicle might proceed out of control and could become a serious threat to officers and others in the area. Notwithstanding, there are circumstances where shooting at a moving vehicle is the most appropriate and effective use of force.

Officers should consider this use of deadly force only when “a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle,” or when the vehicle is intentionally being used as a deadly weapon and “all other reasonable means of defense have been exhausted (or are not present or practical).”²¹ Examples of circumstances where officers are justified in shooting at a moving vehicle include when an occupant of the vehicle is shooting at the officer or others in the vicinity or, as has happened recently, the vehicle itself is being used as a deliberate means to kill others, such as a truck being driven through a crowd of innocent bystanders. Even under these circumstances, such actions should be taken only if the action does not present an unreasonable risk to officers or others, when reasonable alternatives are not practical, when failure to take such action would probably result in death or serious bodily injury, and then only when due consideration has been given to the safety of others in the vicinity. In cases where officers believe that the driver is intentionally attempting

17 National Consensus Policy on Use of Force, 3.

18 National Consensus Policy on Use of Force, 4.

19 Ibid.

20 For information regarding United States Supreme Court cases addressing firing at a moving vehicle, see *Plumhoff v. Rickard*, 134 S. Ct. 2012 and *Mullenix v. Luna*, 577 U.S. ____ (2015) and the accompanying *amicus curiae* brief.

21 National Consensus Policy on Use of Force, 4.

to run them down, primary consideration must be given to moving out of the path of the vehicle. The *Consensus Policy* recognizes that there are times when getting out of the way of the vehicle is not possible and the use of a firearm by the officer may be warranted.

Shots Discharged from a Moving Vehicle.

When discussing whether or not officers should be permitted to fire shots from a moving vehicle, many of the same arguments can be made as firing at a moving vehicle. Most notably, accuracy of shot placement is significantly and negatively affected in such situations, thereby substantially increasing the risk to innocent bystanders from errant shots. Therefore, the *Consensus Policy* prohibits officers from discharging their weapons from moving vehicles unless exigent circumstances exist. In these situations, as with all instances where exigent circumstances are present, the officer must have an articulable reason for this use of deadly force.

Choke Holds. For the purposes of this document, a choke hold is defined as “a physical maneuver that restricts an individual’s ability to breathe for the purposes of incapacitation.”²² In the most common choke hold, referred to as an arm-bar hold, an officer places his or her forearm across the front of the individual’s neck and then applies pressure for the purpose of cutting off air flow. These are extremely dangerous maneuvers that can easily result in serious bodily injury or death. Therefore, the *Consensus Policy* allows their use only when deadly force is authorized.²³

E. Training

While it is crucial that law enforcement agencies develop a clear, concise policy regarding the use of force, it is equally important that officers are completely familiar with and fully understand the policy and any applicable laws. Therefore, officers

should receive training on their agency’s use-of-force policy and any accompanying legal updates on at least an annual basis. Training should also be provided on all approved force options and techniques permitted by agency policy, along with regular refresher training that includes a review of the policy and hands-on, practical training. In addition, officers should also receive regular and periodic training related to de-escalation techniques and the importance of de-escalation as a tactic, as well as training designed to “enhance officers’ discretion and judgment in using less-lethal and deadly force.”²⁴

Firearms training should simulate actual shooting situations and conditions. This includes night or reduced light shooting, shooting at moving targets, primary- or secondary-hand firing, and combat simulation shooting. Firearms training should attempt to simulate the actual environment and circumstances of foreseeable encounters in the community setting, whether urban, suburban, or rural. A variety of computer-simulation training is available together with established and recognized tactical, exertion, and stress courses.

Law enforcement administrators, agencies, and parent jurisdictions may be held liable for the actions of their officers should they be unable to verify that appropriate and adequate training has been received and that officers have successfully passed any testing or certification requirements. Accordingly, agencies must provide responsive training, and all records of training received by officers must be accurately maintained for later verification.

22 *National Consensus Policy on Use of Force*, 2.

23 A note regarding choke holds—the vascular neck restraint is not included in the definition of “choke hold” and thus its use is not restricted to deadly force situations.

24 *National Consensus Policy on Use of Force*, 4.

CONTRIBUTING ORGANIZATIONS

This document is the result of a collaborative effort among the following organizations.



2018 Examination Modifications

In 2018, IOS concluded the process of making modifications to the scoring procedure for the NCJOSI² examination series. The decision to make these modifications was based upon the collection of several years' worth of candidate testing data across the United States. Detailed analyses were conducted over the span of several months revealing trends in the passing rates of candidates in conjunction with the diversity of the candidates. Several areas to improve the examination were identified as a result of the study. These improvements included the following:

- Eliminating cognitive items where significant differences existed in correct response rates between different ethnicities.
- Aligning the overall passing rate for the NCJOSI² more closely with IOS' other off-the-shelf examinations.
- Modifying the keying procedure of the non-cognitive component to align with observed national response patterns.
- Optimizing the weighting of the cognitive and non-cognitive components of the NCJOSI² to continue significantly predicting on-the-job performance.
- Identifying candidates who may be skewing their response patterns on the non-cognitive portion of the NCJOSI².

A total of seven independent law enforcement agencies provided IOS with on-the-job officer performance data in conjunction with NCJOSI² test data from those same officers. When the new scoring procedure was used, all seven studies continued to significantly predict job performance and bolster the validity evidence for using the examination to select law enforcement personnel. In several cases, the new scoring program improved prediction of job performance when compared to the traditional scoring model.

Validity

The NCJOSI² is a robust national examination developed and validated to identify individuals who are qualified to hold entry-level law enforcement officer positions. The NCJOSI² is composed of two powerful predictors of job performance: cognitive ability and integrity. Each measure has been rigorously developed to measure specific aspects of the job performance domain. This ensures that the NCJOSI² measures the widest possible range of job performance, as evidenced by national validation studies. The NCJOSI² has been found to be

highly predictive of law enforcement officer job performance ($r(697) = .38, p < .05$) with excellent reliability ($\alpha_{\text{stratified}} = .84$). Additionally, the individual cognitive and integrity components have been found to be highly predictive of job performance ($r(697) = .31, p < .05$ and $r(697) = .30, p < .05$, respectively).

Impact

Overall minority passing rates increased significantly after the 2018 scoring changes were implemented. The table below provides further information (information in the right table concerns the newly revised scoring procedure):

Race	N	Traditional Scoring				Passing	% Passing	AIR	SMD
		Passing	% Passing	AIR	SMD				
African American	75	35	46.7%	0.74	.923	53	70.7%	.80	1.03
Asian	26	17	65.4%	1.03	.155	22	84.6%	.96	.331
Hispanic	27	22	81.5%	1.29	-.292	24	88.9%	1.0	-.016
Native American*	2	1	50.0%	N/A	.021	2	100.0%	1.1	-.508
White	910	577	63.4%	--	--	806	88.6%	-	-
Other*	21	13	61.9%	N/A	.281	17	81.0%	.91	.546
Gender	N	Traditional Scoring				Passing	% Passing	AIR	SMD
		Passing	% Passing	AIR	SMD				
Male	933	579	62.1%	--	--	809	86.7%	-	-
Female	128	86	67.2%	1.08	-.129	115	89.8%	1.0	-.178
Overall	1061	665	62.7%	--	--	924	87.1%	-	-

African American passing rates increased from 46.7% to 70.7%, Asian passing rates from 65.4% to 84.6% and Hispanic passing rates from 81.5% to 88.9%. Additionally, the overall passing rate on the tool increased as well, from 62.7% to approximately 87.1%, though this passing rate is higher than the national average that was calculated across the examination, which was around 82.0%. National averages are provided in the next table, note the favorable adverse impact ratio for *Northeast* region, calculated at nearly 99%. This signifies that the passing rates of African Americans is almost identical to Caucasians. In summary, the modifications in the scoring procedure have led to significant gains in retaining a diverse passing candidate pool while still ensuring these candidates are just as qualified for the job, through the robust validation studies performed at seven different law enforcement agencies that was discussed in the previous section of this report.

National Adverse Impact Estimates:

Region	Sample	African American		Hispanic		Female	
		AIR	Sample	AIR	Sample	AIR	Sample
Midwest	33,135	0.82	5,909	0.88	4,966	0.99	5,960
Northeast	16,198	0.99	970	0.89	1,159	1.05	1,398
South	5,182	0.88	791	0.90	668	0.98	573
West	8,118	0.86	499	0.92	1,138	1.02	1,354

Integrity Inventory Measures

- Measures related to Aggression, Deviance, and Stress Tolerance highlighted in yellow.
- Measures related to personality characteristics related to rule following behaviors and “doing what is right” in blue.

- **Antisocial Behaviors**

- **Theft Attitudes.** This scale measures an individual’s perceptions, attitudes and behavioral intentions regarding workplace theft and issues of equity and fairness surrounding such behavior.
- **Alcohol/Drug Attitudes.** This scale measures an individual’s opinions and behavioral intentions regarding alcohol and drug use and the relation of such behavior to the work environment.
- **Antisocial Admissions.** The admission to overt questions regarding past antisocial behaviors, such as theft, violence and illegal activities.

- **Positive Outlook**

- **Work Attitudes.** This scale measures general work attitudes, such as an individual’s feelings about working hard and being loyal to an employer and his/her perceptions of fairness in the workplace.
- **Ethics and Moral Character.** This scale measures a candidate’s ethical inclination and the nature of his/her moral character. It deals with an individual’s opinions regarding telling the truth, trusting others and doing the right thing.

- **Orderliness/Diligence**

- **Orderliness.** This scale measures one’s propensity towards organization, structure and rules. Such individuals are characterized by being observant of law, rule, or discipline; well-behaved; and law-abiding.
- **Diligence.** This scale measures the degree to which task completion and task focus define one’s evaluation of work effort and are part of one’s definition of self-worth.

- **Socialization**

- **Achievement/Success Orientation.** The degree to which one pursues excellence in his/her work. It deals with how likely one is to have been a top performer in past situations and the degree to which excellence defines one’s self-worth.
- **Emotional Stability.** This scale measures one’s ability to appropriately interact with others, i.e., “people skills.” It deals with stress tolerance and handling emotions in stressful situations. Narcissistic tendencies are also included in this measure.
- **Extraversion.** The scale measures one’s propensity towards interacting with others, being sociable and generally gaining pleasure from social engagement.
- **Internal Locus of Control.** This scale measures the degree to which a person feels that he/she is in control of his/her own fate or “destiny.” In other words, a person believes that he/she determines when good or bad things happen to him/her as opposed to an outside agent.
- **Turnover Intentions.** One’s tendency or with what regularity one quits or leaves an organization. This measure also deals with how easily one becomes bored with tasks.



STARTING WITH WHAT WORKS

Using
Evidence-Based Strategies
to **Improve Community**
and **Police Relations**



STARTING WITH WHAT WORKS: USING EVIDENCE-BASED STRATEGIES TO IMPROVE COMMUNITY-POLICE RELATIONS

The Final Report of the President's Task Force on 21st Century Policing is an important guiding document for modern law enforcement leaders. Within six categories—building trust and legitimacy, policy and oversight, technology and social media, community policing and crime reduction, training and education, and officer wellness and safety—the Task Force presents recommendations for law enforcement agencies and the federal government with the goal of strengthening democratic policing in a complex and diverse society.



The report lays out practical steps that provide a road map to help law enforcement and communities reduce crime and strengthen relationships. The Task Force Report includes 156 recommendations and action items. For many agencies looking to begin implementation of these recommendations, the obvious question is “where do we start?”

EVIDENCE AS A STARTING POINT

While some of the Task Force recommendations institutionalize established best practices, others highlight innovations and new ideas for law enforcement and communities. As such, some of the recommendations have not yet been researched, but they are consistent with the guiding principles of policing in a democratic society.



A substantial amount of research exists to help law enforcement leaders plan and implement strategies that have demonstrated positive effects. With funding from the Laura and John Arnold Foundation, the International Association of Chiefs of Police (IACP) and George Mason University Center for Evidence-Based Crime Policy (GMU) collaborated to conduct an evidence assessment of the 21st Century Policing Task Force

recommendations and action items. This report and accompanying online dashboard tool outline which of the recommendations are based in research and which may need more research and testing. For the full report and additional resources, visit www.theiacp.org/ICPRGettingStarted.

This brochure allows law enforcement leaders to **start with what works** by outlining the Task Force recommendations with the strongest base of evidence to support their effectiveness.

BUILDING TRUST AND LEGITIMACY

Numerous research studies validate the link among procedural justice, legitimacy, and community trust. While research on how law enforcement can increase procedural justice in practice is limited and, in some instances, inconsistent, a larger body of research exists on how procedural justice in law enforcement workplace practices affects employee legitimacy perceptions. Additionally, it is important for agencies to measure trust and legitimacy to assess perceptions and changes over time.

Building Trust and Legitimacy Evidence-Based Recommendations:

- Engage in strategic planning with personnel to **balance a warrior mind-set with a guardian approach**.
- **Promote procedural justice in daily interactions with citizens.** Perceptions of treatment can affect how citizens view interactions with authority figures.
- Promote examples of procedural justice and legitimacy by practicing these principles internally. This can be achieved, in part, by **giving all ranks of officers a greater voice** and by ensuring the fairness of disciplinary procedures.
- **Whenever possible, recruit staff who represent the diversity of the community** with attention to race, gender, language, life experience, and cultural background.
- Focus on positive, non-enforcement activities during citizen-police interactions such as **problem-solving, situational prevention, and community collaboration**.
- **Implement periodic community surveys** to obtain community feedback. Consider working with research partners to develop surveys and target the surveys to those communities most impacted by crime or police services.

POLICY AND OVERSIGHT

Research knowledge, while scarce, provides important insight about Task Force recommendations on diversity, use of force, oversight, and civil disturbances and demonstrations. For example, while little research exists about the prevalence and nature of bias in policing and how it is connected to actual behavior, studies have shown disparate policing outcomes associated with the race, age, gender, and sexual orientation of those who come in contact with law enforcement.

Policy and Oversight Evidence-Based Recommendations:

- Employ policies, practices, and strategies that recognize and try to **minimize bias and/or disparate outcomes** related to characteristics such as race, gender, age, disabilities, and sexual orientation.
- **Provide training modules to address implicit bias.** Specifically, trainings and exercises should focus on positive interactions and counter-stereotyping.
- **Adopt clear and comprehensive policies on the use of force** and make these policies public. These policies should address the use of de-escalation, less-lethal force, and deadly force and should clearly state the details on the release of use-of-force incident data.
- **Consider adopting external oversight bodies for the review of critical incidents** involving police action. This can help establish a transparent review process and manage public expectations.
- **Establish clear policies for handling civil disturbances and demonstrations** that include guidance on the use and escalation of force. Police should also use after-action reports to review their responses to mass demonstrations.
- **Collect adequate data on critical incidents involving police officers.** At a minimum, agencies should collect information about suspect and officer demographics as well as the location, date, time, and other relevant contextual factors. These data should be analyzed on a recurring basis.

TECHNOLOGY AND SOCIAL MEDIA

The technology field continues to develop rapidly with body cameras, less-lethal weapons, online communication platforms, and other new and innovative tools frequently entering the field. Due to this rapid development, research on these topics is preliminary and limited. However, research exists on police technologies more generally that can provide important insights into implementing contemporary technologies. Given the expectations of the public in this age of technology, it is important for law enforcement leaders to consider implementing these tools.

Technology and Social Media Evidence-Based Recommendations:

- Consider the potential benefits, costs, technical requirements, and legal issues surrounding the **adoption of body cameras**.
- **Require officers equipped with body cameras to use the cameras** during their interactions with community members, as consistent with established policy and training. Train officers to notify citizens that their encounters are being recorded.
- **Use the Internet and social media to promote more collaborative and interactive communication with community members** by disseminating important, accurate safety information in real time, sharing positive stories, and encouraging community input.
- **Formulate policies defining acceptable uses of social media** by staff in both official and unofficial capacities.
- **Equip officers with less-lethal weapons** and provide annual training on their use.
- **Consult with the community when adopting, implementing, and evaluating technologies**, particularly those designed for surveillance and the collection of data about citizens.
- **Stay abreast of research on technology**, as many studies in progress will yield further insights and lessons on costs, benefits, unintended consequences, and best practices related to this technology.

COMMUNITY POLICING AND CRIME REDUCTION

Collaborative problem-solving between police and the community is a core tenet of community-oriented policing. While the diversity of strategies deployed within the framework of community policing make it somewhat challenging to conduct scientific research, studies show that community policing can increase community ratings of satisfaction with the police and increase police legitimacy.

Community Policing and Crime Reduction Evidence-Based Recommendations:

- **Examine the agency commitment to community policing**, as well as the tangible strategies used to achieve community policing. Strategic planning can help agencies assess their current community policing capacity and effectiveness and determine goals for moving forward.
- **Engage with the community** through meaningful partnerships and problem-solving, ensuring that all parts of the community are represented, particularly those with differing viewpoints.
- **Enhance training on communication, conflict resolution, and de-escalation** skills in academy and in-service training protocols.
- **Incorporate community collaboration and problem-solving competencies into employee performance evaluations** in order to determine training needs, prioritize community-oriented police work, and reward officers for their efforts.
- **Collaborate with schools, local governments, and communities to implement coordinated, evidence-based behavioral support programs in schools** to limit the use of arrest and other criminal justice sanctions in schools.

TRAINING AND EDUCATION

Research done on adult learning in other fields provides important insights for law enforcement training. Research that evaluates the impact of law enforcement training on the actual performance of the job is very limited, but evidence exists to support the prioritization of certain training topics.

Training and Education Evidence-Based Recommendations:

- **Deliver training that engages officers to solve problems and learn-by-doing** while making clear the importance and real-world application of the training topic. Agencies should provide follow-up support to ensure that officers are applying training content in practice.
- **Incorporate crisis intervention training into basic recruit and in-service training** to improve officer knowledge and attitude toward interactions with the mentally ill and to encourage the use of de-escalation techniques.
- **Implement diversity training that addresses implicit or unconscious bias** rather than focuses on explicit bias to help individuals manage and minimize their implicit biases.
- **Encourage higher education**, and when resources allow it, incentivize higher education.

OFFICER WELLNESS AND SAFETY

The Task Force notes the important link between officer wellness and safety and the law enforcement agency's capacity to protect and serve its community. A great deal of research confirms that fatigue, poor health, posttraumatic stress, and injury are prevalent in the law enforcement profession. While there is little research on the impact of organizational efforts to address fatigue and stress and improve the health, safety, and wellness of police officers, there are programs and strategies that show promise. Consistently making officers aware of these efforts can improve officer wellness and safety.

Officer Wellness and Safety Evidence-Based Recommendations:

- **Supervisors, leaders, and trainers should discuss police fatigue, stress, posttraumatic stress, health, danger, and injury with officers in neutral ways** during training, roll calls, and within squad discussions. The agency should provide officers with easily accessible information on well-established treatments.
- **Take care in how wellness, health, and stress management programs are presented**, as labels and dissemination approaches can matter in how receptive officers are to these programs. For example, research shows that officers may be more receptive to "wellness" programs than those labeled "stress management."
- **Collect baseline and ongoing data on officer fatigue, health, and stress** in ways that are nonthreatening and respectful of officer privacy. These data can be analyzed to understand the connection between officer health and wellness and behavioral outcomes.
- **Consider shift length**, carefully weighing the benefits and consequences. Ten-hour shifts may allow officers to get more sleep, work less overtime, and improve their work-home life balance. Twelve-hour shifts may increase officer fatigue, which can affect wellness and police work outcomes.
- **Increase data collection about accidents, near misses, and injuries**, and analyze the data regularly, including their links to officer wellness.
- **Encourage officers to use seat belts, ballistic vests, and tactical first aid kits**. Accompany these safety measures with training and clearly written policies, and ensure compliance with these policies through daily supervision and inspection. These proven, tangible actions can immediately increase officer safety.

AREAS FOR FURTHER RESEARCH

It is important to note that many of the recommendations made by the Task Force were based on new and innovative ideas. As such, researchers have yet to test and validate many of the recommendations. While some of the Task Force recommendations do not yet have a strong research base, they do align with principles of procedural justice and democratic policing and should be considered.

An Evidence-Assessment of the Recommendations of the President's

Task Force on 21st Century Policing identifies many important law enforcement research topics. View the full report for a list of research recommendations relating to each pillar of the Task Force Report.



RESOURCES:

Full Research Report: *An Evidence-Assessment of the Recommendations of the President's Task Force on 21st Century Policing: Implementation and Research Priorities*

theiacp.org/Portals/0/documents/ICPR/IACP%20GMU%20Evidence%20Assessment%20Report%20FINAL.pdf

Blueprint for 21st Century Policing Online Dashboard

theiacp.org/ICPR

Final Report of the President's Task Force on 21st Century Policing

cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

Center for Evidence-Based Crime Policy at George Mason University

cebcp.org/

IACP Law Enforcement Policy Center

theiacp.org/Model-Policy

IACP/University of Cincinnati Center for Police Research and Policy

theiacp.org/research

COPS Office, U.S. Department of Justice

cops.usdoj.gov



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