

April 11, 2016

TO: Adrian Brown, Assistant US Attorney, United States Department of Justice

FROM: Kathleen Saadat, Community Liaison and COAB Chair

RE: COAB Recommendations on Directives:

1010.00 Use of Force
1030.00 Baton Use
1040.00 Aerosol Restraints
1050.00 Less Lethal Weapons
1051.00 Electronic Control Use Weapon System
870.20 Custody and Transportation of Subjects
630.15 Foot Pursuits
630.45 Emergency Custody Transports
630.50 Emergency Medical Aid

The following recommendations regarding Portland Police Bureau Directives were approved by the Community Oversight Advisory Board as part of its responsibilities set forth in the DOJ-City of Portland Settlement Agreement. On behalf of the COAB, these recommendations are forwarded for your consideration in developing/revising policy for the Portland Police Bureau. The full text of each recommendation follows this cover memo. The titles below are abbreviated.

On December 10, 2015 and January 28, 2016, The COAB approved the following recommendations on the PPB's Use of Force directives:

- **102215-1** COMPREHENSIVE EXAMINATION AND REWRITE OF PPB DIRECTIVE 1010.00, USE OF FORCE: Directive 1010.00, Use of Force, should be comprehensively examined and rewritten where needed to ensure that all of the recommendations from the Data Systems, Use of Force, Compliance Subcommittee are embodied in the directive. (p. 4)
- **102215-2** There should be a set of core principles for when the use of force is authorized, and these principles should be explicitly laid out at the beginning of revised Directive 1010.00, Use of Force. (p. 5)
- **102215-3** DETERMINING THE REASONABLENESS OF FORCE: There should be specific criteria for determining the reasonableness of both the initiation and the continuation of the use of force in any encounter. (p. 6)

- **102215-4** Prohibit the use of deadly force except in very limited, extraordinary circumstances (p. 7)
- **102215-5** Specific Prohibitions on the Use of Force: Prohibitions against the use of specific types of force should be explicitly spelled out, both for absolute prohibitions and prohibitions except in very limited circumstances. (p. 9)
- **102215-6** Antecedents to the Use of Force: Before any use of force, an officer must, if time, safety, and the facts and circumstances permit, provide a verbal warning of the type of force to be used. If such a verbal warning is issued, the officer must provide the subject with time to comply. (p. 11)
- **102215-7** Other Requirements: Each officer present at an encounter where the use of force is possible or underway has the responsibility of making an individual determination regarding the use of force. (p. 12)
- **102215-8** Miscellaneous (p. 13)
- **111215-1** Directives Related to the Use of Force: All Directives Related to Use of Force... should be revised to be clear, comprehensive and consistent with the COAB's anticipated recommendations regarding Directive 1010.00 (Use of Force) and previous recommendation regarding Directive 1010.10 (Post Deadly Force Procedures). (p. 14)
- **111215-2** Revise Directive 1030.00, Baton Use, to Clarify When the Use of Police Batons Is Authorized (p. 15)

On February 11, 2016, the COAB approved the following recommendations on the PPB's Weapons-Related directives:

- **111215-4** Revise Directive 1050.00, Less Lethal Weapons and Munitions, to Clarify When the Use of Beanbag Shotguns Is Authorized. (p. 17)
- **111215-5** Rename and Revise Directive 1051.00, Electronic Control Weapon System, to Clarify When the Use of Conducted Electrical Weapons [Tasers] Is Authorized. (p. 20)

On March 10, 2016, the COAB approved the following recommendations on the PPB's Weapons-related directives

- **111215-6** Revise Directive 1090.00, Special Weapon Use, to Clarify What "Special Weapons" the PPB Has Approved or Is Only Testing, When Their Use Is Authorized and Who Can Use Them. (p. 24)
- **111215-7** Revise Directive 630.15 Foot Pursuits... to further clarify when foot pursuits should be initiated or terminated. (p. 25)
- **111215-8** Revised Directive 315.30, Satisfactory Performance, should be consistent with all of the COAB's recommendations for rewriting Directive 1010.00, Use of Force. (p. 26)
- **111215-9** Minimize Incidents of Bystander Endangerment: The PPB should revise its policy in current Directive 1010.00, Use of Force, as may be necessary to ensure that the incidence of bystander endangerments when firearms are discharged or potentially discharged is minimized. (p. 27)

- **111215-10** Make Explicit and Unequivocal in Any Appropriate Directives and Training Procedures and Practices that Heightened Risk, Not Any Particular Distance Between Subject and Officer, Determines Whether It Is Appropriate to Draw a Weapon (p. 28)
- **031016-1** Revise Directive 870.20, Custody and Transportation of Subjects to contain only policy statements, to eliminate references to “maximum restraint”, to change “might present an immediate threat” to “is presenting an immediate threat”, and to eliminate the use of terms such as “deranged,” “bizarre,” and “excited delirium” from its directives and training (p. 29)

On March 24, 2016, the COAB approved the following recommendations on the PPB’s Weapons-related directives. (Please note that the directives were voted on out of order; 032416-4 was held for a future COAB meeting. 111215-3a failed to receive sufficient COAB support.)

- **102215-4a** Directive 1010.00, Use of Force: Modifies a portion of Recommendation # 102215-4 to add an intent element to when deadly force may be used. (p. 30)
- **032416-1** Directive 630.50, Emergency Medical Aid, should include an explanation of what kind of First Aid/CPR training is required and offered (p. 31)
- **032416-2** Directive 870.20, Custody and Transportation of Subjects, should include a description of training required and offered (p. 32)
- **032416-3** Directive 630.45, Emergency Custody Transports—should be revised (p. 33)
- **032416-5** Directive 630.15, Foot Pursuits—should clarify which kinds of foot pursuits should be initiated or terminated (p. 35)

Thank you for your consideration of these recommendations,



Kathleen Saadat
Community Liaison and COAB Chair

RECOMMENDATION 102215-1

COMPREHENSIVE EXAMINATION AND REWRITE OF PPB DIRECTIVE 1010.00, USE OF FORCE: Directive 1010.00, Use of Force, should be comprehensively examined and rewritten where needed to ensure that all of the recommendations from the Data Systems, Use of Force, Compliance Subcommittee are embodied in the directive.

FULL TEXT:

COMPREHENSIVE EXAMINATION AND REWRITE OF PPB DIRECTIVE 1010.00, USE OF FORCE

Directive 1010.00, Use of Force, should be comprehensively examined and rewritten where needed to ensure that all of the recommendations from the Data Systems, Use of Force, Compliance Subcommittee are embodied in the directive.

The revised directive, unlike the current version, should be entirely self-contained, with no external references to other directives, guidelines, or manual describing policies, principles, guidelines, training, or standard operating procedures. It should be stated explicitly that the entirety of revised Directive 1010.00 is a policy statement, in keeping with the formatting and organization of the DOJ-approved Seattle Police Department use of force policies.

The revised directive also needs to have a set of clear and comprehensive definitions.

While the subcommittee believes that the entire directive needs review, the more specific recommendations, #s 102215-2-102215-8, are focused on the parts found to be most in need of revision.

Approved amendment to 102215-1: on page 5 and 6, move #3 to be #1, acknowledge that PPB respects the value and sanctity of human life; switch #5 to be #2, recognize that use of force impacts member involved

RECOMMENDATION 102215-2

There should be a set of core principles for when the use of force is authorized, and these principles should be explicitly laid out at the beginning of revised Directive 1010.00, Use of Force.

FULL TEXT:

CORE PRINCIPLES

There should be a set of core principles for when the use of force is authorized, and these principles should be explicitly laid out at the beginning of revised Directive 1010.00, Use of Force.

The set of core principles should begin with a strong mission statement that expands upon the one in current Directive 1010.00. [The proposed text for incorporation into the revised directive is set forth below.]

The set of core principles should include at least the following:

- a. A comprehensive statement which emphasizes the primacy of de-escalation as a tool to avoid or reduce the need for force;
- b. A comprehensive statement that only a level of force which is objectively reasonable, necessary under the the facts and circumstances, and proportionate to the threat or resistance of a subject is authorized [The proposed text for incorporation in the revised directive is set forth below.]; and
- c. Objectively unreasonable, unnecessary and/or disproportionate uses of force and/or other violations of the directive shall result in corrective action and/or discipline, up to and including termination.

RECOMMENDATION 102215-3

DETERMINING THE REASONABLENESS OF FORCE: There should be specific criteria for determining the reasonableness of both the initiation and the continuation of the use of force in any encounter.

FULL TEXT:

DETERMINING THE REASONABLENESS OF FORCE

There should be specific criteria for determining the reasonableness of both the initiation and the continuation of the use of force in any encounter. At a minimum, the criteria should include:

- a. Officers will take into account all information, when feasible, including behavior, reports, and known history as conveyed to or learned by the officer by any means, indicating that a person has, or is perceived to have, mental illness;
- b. A broad list of facts and circumstances which must be considered in determining the reasonableness of force;
- c. A use of force continuum that emphasizes the requirement that only necessary and proportionate force be used;
- d. A requirement that there be a continuing assessment of the encounter, such that changing facts and circumstances be explicitly taken into account in determining what is objectively reasonable, necessary, and proportionate force at any point in time; and
- e. Since an officer's own actions may cause a need for force, officers should take reasonable care that their actions -- whether consistent with policy and training or not -- do not precipitate an unnecessary unreasonable, or disproportionate use of force, by placing themselves or others in jeopardy.

RECOMMENDATION 102215-4

Prohibit the use of deadly force except in very limited, extraordinary circumstances

FULL TEXT:

PROHIBIT THE USE OF DEADLY FORCE EXCEPT IN VERY LIMITED, EXTRAORDINARY CIRCUMSTANCES.

Deadly force should be prohibited except in very limited, extraordinary circumstances.

Deadly force is the application of physical force that under the totality of the facts and circumstances is readily capable or reasonably likely to cause death or serious physical injury. Examples include but are not limited to the following:

- a. Shooting a firearm at a person;
- b. Neck holds, choke holds, and carotid holds;
- c. Intentional strikes to the head, neck, throat, spine, groin, and kidney with any impact weapon, such as a baton or the officers feet, knees, fists, and elbows;
- d. Pushing or striking a person's head into a hard, fixed object (examples include but are not limited to concrete objects or surfaces, or solid metal structures such as bars or guardrails);
- e. Shooting a person in the head, neck, throat, spine, groin, and kidney with a beanbag shotgun; and
- f. Ramming a vehicle.

Deadly force may only be used in circumstances where the threat of death or serious physical injury to an officer or others is immediate. A danger is immediate only when an objectively reasonable officer would believe that:

- a. The suspect has the means or instrumentalities to do so, and
- b. The suspect has the opportunity and ability to use the means or instrumentalities to cause death or serious physical injury.

A verbal warning that deadly force will be used should be given to the suspect, if time, safety and the facts and circumstances permit.

Deadly force may be used to prevent the escape of a fleeing suspect only when an objectively reasonable officer would believe that it is necessary and that there is probable cause that:

- a. The suspect has committed or is in the process of committing a felony involving the infliction or threatened infliction of death or serious physical injury;

- b. The escape of the suspect would pose an immediate danger of death or serious physical injury to another person unless the suspect is apprehended without delay;
and
- c. The officer has given a verbal warning to the suspect, if time, safety and the facts and circumstances permit.

Amendment to 102215-4: Include a definition of neck hold.

RECOMMENDATION 102215-5

Specific Prohibitions on the Use of Force: Prohibitions against the use of specific types of force should be explicitly spelled out, both for absolute prohibitions and prohibitions except in very limited circumstances.

FULL TEXT:

SPECIFIC PROHIBITIONS ON THE USE OF FORCE

Prohibitions against the use of specific types of force should be explicitly spelled out, both for absolute prohibitions and prohibitions except in very limited circumstances. These prohibitions include:

- a. The use of force to punish or retaliate against a person. This is an absolute prohibition.
- b. The use of force against individuals who only verbally confront officers. This prohibition is absolute, except when the vocalization impedes a legitimate law enforcement purpose. Facts and circumstances to support the exception will rarely exist.
- c. The use of force to overcome passive resistance. This is an absolute prohibition except when physically moving a person is necessary and objectively reasonable. It should be emphasized that in such instances the minimum force necessary must not be exceeded.
- d. Intentional strikes to the head, neck, throat, heart, kidney, groin and spine with any authorized impact weapon, such as a baton, can be deadly force. Therefore, such intentional strikes are prohibited, except when under the facts and circumstances deadly force is authorized.
- e. The use of flashlights as impact weapons should not be routine, but used only when there is an immediate need to strike and no more-appropriate object is available for use, such as a Bureau issued police baton. The use of force report must document the unavailability of no alternatives.
- f. Shooting at or from moving vehicles, except in very limited circumstances.

Officers should not discharge a firearm from or at a moving vehicle unless (a) the occupant(s) of the vehicle are using deadly force, other than the vehicle itself, against the officer or another person, and (b) such action is necessary for self-defense or to protect another person from death or serious physical injury. Discharging a firearm in this situation is never authorized when it is reasonable to believe that the vehicle may contain an innocent passenger or is reasonably apparent that the vehicle may careen out of control and injure a bystander.

g. Vehicle pursuits of persons who have not committed a violent felony unless the officer has at least a reasonable suspicion that a fleeing suspect has committed or has attempted to commit a crime of violence and the escape of the suspect would pose an imminent danger of death or serious physical injury to the officer or another person. Officers must receive supervisory approval prior to initiating the pursuit. Pursuits for property offenses, misdemeanor offenses, traffic, or civil infractions are absolutely prohibited and will never be approved.

h. The use of neck holds, choke holds, and carotid holds. This is an absolute prohibition.

i. The use of hog ties and allowing a subject to be face down while in a hobble restraint. These are absolute prohibitions.

RECOMMENDATION 102215-6

Antecedents to the Use of Force: Before any use of force, an officer must, if time, safety, and the facts and circumstances permit, provide a verbal warning of the type of force to be used. If such a verbal warning is issued, the officer must provide the subject with time to comply.

FULL TEXT:

ANTECEDENTS TO THE USE OF FORCE

Before any use of force, an officer must, if time, safety, and the facts and circumstances permit, provide a verbal warning of the type of force to be used. If such a verbal warning is issued, the officer must provide the subject with time to comply.

Officers should make specific attempts to determine whether the subject understands the verbal warnings that have been given, taking into account factors such as language, hearing, and cognitive ability.

Officers should attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to using force.

In such instances, officers should identify themselves as police officers. Also, if it is not already known by the subject to be detained, arrested, or searched, officers should, if reasonable, make clear their intent to detain, arrest, or search the subject.

RECOMMENDATION 102215-7

Other Requirements: Each officer present at an encounter where the use of force is possible or underway has the responsibility of making an individual determination regarding the use of force.

FULL TEXT:

OTHER REQUIREMENTS

Each officer present at an encounter where the use of force is possible or underway has the responsibility of making an individual determination regarding the use of force. This responsibility is manifested at a minimum in the following ways:

a. Force shall not be used on a subject by an officer solely because another officer is using force. As examples: (i) “ dogpiling” is usually unreasonable and should be avoided unless determined objectively reasonable, necessary and proportionate to the threat, if any, posed by the subject, and (ii) intentional strikes with impact weapons, such as batons, or an officer’s hands, elbows, knees and feet, just because another officer is making such intentional strikes, is prohibited.

b. An officer has a duty to intercede to prevent the unreasonable use of force by another officer if the officer has reason to know that unreasonable force is being used.

c. If the use of force is being discussed among officers, an officer has a duty to speak out against the use of force if the officer believes it is not objectively reasonable, necessary or proportionate to the threat, if any, posed by the person who force may be used against.

RECOMMENDATION 102215-8

Miscellaneous.

FULL TEXT:

MISCELLANEOUS

Implementing the Data Systems, Use of Force, Compliance Subcommittee's six other recommendations will greatly improve revised Directive 1010.00, Use of Force.

This final recommendation, while not having the weight of the previous ones, is nonetheless important. The revised directive and all other directives on force should:

a. Use the words "facts and circumstances" rather than just " circumstances" when listing the factors to be considered in determining the objective reasonableness of force.

b. Use the word "weapons" for actual weapons, such as firearms, beanbag shotguns, electronic control weapons (tasers), batons, and aerosol restraints (pepper spray). Use the word "tools" for non-weaponry, such handcuffs and de-escalation techniques.

c. Make specific changes to the Procedure Section in the current directive:

i. Section 3.1: change the word "important" to "critical."

ii. Section 9.3: " ... each member who uses physical force will [add word " separately"] complete a Force Data Collection Report."

iii. Section 11.1.2: "Supervisors shall address deficiencies in reports promptly." This should be clarified to explain what is meant by a deficiency. Supervisors should not tell officers what words to use or how to say something to make the report comply with policy or training

RECOMMENDATION 111215-1

Directives Related to the Use of Force: All Directives Related to Use of Force... should be revised to be clear, comprehensive and consistent with the COAB's anticipated recommendations regarding Directive 1010.00 (Use of Force) and previous recommendation regarding Directive 1010.10 (Post Deadly Force Procedures).

FULL TEXT:

Revise All Directives Related to Use of Force):

All Directives Related to Use of Force, such as Directives 315.30 (Satisfactory Performance), 630.15 (Foot Pursuits), 940.00 (After Action Reports), 1020.00 (Firearms), 1030.00 (Baton Use), 1040.00 (Aerosol Restraints), 1050.00 (Less Lethal Weapons and Munitions), 1051 (Electronic Control Weapon System), and 1090.00 (Special Weapon Use) (all attached) should be revised to be clear, comprehensive and consistent with the COAB's anticipated recommendations regarding Directive 1010.00 (Use of Force) and previous recommendation regarding Directive 1010.10 (Post Deadly Force Procedures).

The revision of such directives should include:

- a. Merge the "policy" and "procedure" sections by deleting sections on "procedure".
- b. Provide clear and comprehensive definitions for words and acronyms, such as "SERT," "RU," "EMS," "DVD," "MCDC," "LOS," and others.
- c. Delete references to rescinded directives, such as former Directive 1010.10 (Deadly Physical Force) and 1020.00 (Physical Force).
- d. Add correct references to current directives.

RECOMMENDATION 111215-2

Revise Directive 1030.00, Baton Use, to Clarify When the Use of Police Batons Is Authorized

FULL TEXT:

Revise Directive 1030.00, Baton Use, to Clarify When the Use of Police Batons Is Authorized:

Directive 1030.00 should be revised to clarify when the use of police batons is authorized and include at least the following:

The collapsing/telescoping police baton is an impact weapon. The rewrite of Directive 1020.00, Baton Use, should clearly state when the use of the Bureau issued straight collapsing/telescoping police baton is authorized.

Before resorting to the use of a police baton, officers shall use all reasonable de-escalation techniques and tools which are available to them to avoid the use of such force.

Officers shall only use the police baton when objectively reasonable, necessary, and proportionate to the threat or resistance of the subject as defined more fully in Directive 1010.00 and only to overcome aggressive resistance or aggravated resistance. In addition, each use of a police baton must be objectively reasonable, necessary, and proportionate to the threat or resistance encountered, as required by Directive 1010.00.

Police batons are not authorized to overcome only passive resistance or active resistance by an individual.

Unless it would present a danger to the officer or others, officers shall issue a verbal warning, or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to each strike with a police baton or other impact weapon. Officers shall give the subject sufficient time to comply with the warning before striking the subject. A warning shall be given prior to each strike.

Preferred target areas include arms, legs and torso.

Officers are prohibited from using use the police baton under these facts and circumstances:

a. Officers are prohibited from using a police baton on subjects who are restrained and under control, or complying with police direction.

b. Intentional strikes to the head, neck, throat, heart, kidney, groin and spine with the police baton or any authorized impact weapon can be deadly force. Therefore, such intentional

strikes are prohibited, except when under the facts and circumstances deadly force is authorized.

c. Officers are prohibited from using a police baton as a form of punishment or for retaliation. Recommendation # 111215-2 4

d. Officers are prohibited from using a police baton to prod or jab individuals, to awaken unconscious or intoxicated individuals, or to prevent the destruction of evidence.

Alternative d. Officers are prohibited from using a police baton as an instrument of force on unconscious or intoxicated individuals, or to prevent the destruction of evidence.

Officers shall consider risks to the subject and third parties when determining whether to use the police baton. Officers may only use the police baton on suspects who are visibly pregnant, elderly, apparently pre-adolescent, or visibly frail when there is an exigency or an immediate threat to officers or third parties.

Use of a police baton in the following circumstances is only authorized in situations where there is a risk of death or serious physical injury to the officer or third parties:

a. When the suspect is in an elevated position where a fall is likely to cause substantial injury or death.

b. When the suspect is in a location where the suspect could drown.

c. When the suspect is operating a motor vehicle or motorcycle and the engine is running or is on a bicycle or scooter in motion.

d. When an individual is handcuffed or otherwise restrained.

e. When an individual is fully contained in a police vehicle.

RECOMMENDATION 111215-4

Revise Directive 1050.00, Less Lethal Weapons and Munitions, to Clarify When the Use of Beanbag Shotguns Is Authorized.

FULL TEXT:

Revise Directive 1050.00, Less Lethal Weapons and Munitions, to Clarify When the Use of Beanbag Shotguns Is Authorized):

A beanbag shotgun is a weapon. Directive 1050.00 should be revised to clarify when the use of the beanbag shotgun is authorized and include at least the following:

The optimal distance for a beanbag shotgun is between 21-50 feet. Accuracy drops off rapidly after approximately 45 feet and their flight becomes erratic, striking objects to the right, left, or below the target, increasing the risk to innocent bystanders.

Officers are cautioned that beanbag rounds present a significant risk of death or physical injury when fired at less than 21-30 feet at the chest, head, neck, or groin. Officers should be aware that targeting the chest, head, neck, or groin has on occasion proven deadly when a beanbag round is fired at a close range of 21-30 feet.

Officers are further cautioned that the target area for a beanbag round substantially differs from a deadly force target area. Instead of aiming for the center mass of the body, beanbag shotguns must be aimed at the lower abdomen (below the belt level), thighs, legs below the knee, or arms below the elbow (forearms). The chest, head, neck and groin should not be targeted.

Officers shall consider the risk of the beanbag round causing serious harm when determining whether to fire the beanbag shotgun.

Before resorting to the use of a beanbag shotgun, officers shall use all reasonable de-escalation techniques and tools which are available to them to avoid the use of such force.

Beanbag rounds are only authorized when used on an individual engaged in aggressive resistance or aggravated resistance, as defined in Directive 1010.00, Use of Force, and only to prevent immediate physical harm to the officer or another person. In addition, each firing of a beanbag shotgun must be objectively reasonable, necessary, and proportionate to the threat or resistance encountered, as required by Directive 1010.00.

Use of beanbag rounds in the following circumstances is only authorized in situations where there is a risk of death or serious physical injury to the officer or third parties:

a. When the suspect is in an elevated position where a fall is likely to cause substantial injury or death.

b. When the suspect is in a location where the suspect could drown.

c. When the suspect is operating a motor vehicle or motorcycle and the engine is running or is on a bicycle or scooter in motion.

d. When an individual is handcuffed or otherwise restrained.

e. When an individual is fully contained in a police vehicle.

Unless it would present a danger to the officer or others, officers shall issue a verbal warning, or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to firing a beanbag shot gun. Officers shall give the subject sufficient time to comply with the warning before deploying the taser. A warning shall be given prior to each bean bag round that is fired.

Officers shall not target the chest, head, neck or groin unless deadly force is justified.

Beanbag rounds should not be shot through glass or a chain link fence due to the likelihood of rupturing the beanbags and having the contents injure others.

Officers are prohibited from using beanbag rounds against an individual in a crowd unless the officer has the approval of a supervision and can:

* Target a specific individual who poses an immediate threat of causing physical harm;
and

* Reasonably assure that other individuals in the crowd who pose no threat of violence will not be struck by the weapon.

Officers shall summon emergency medical services for all subjects who have been struck by a beanbag round.

The PPB shall enact a policy which ensures that only less lethal beanbag rounds, as opposed to lethal live rounds, can be fired from a beanbag shotgun.

The PPB shall enact a policy which ensures all shotguns, including beanbag shotguns, are included in a secure manner.

Officers shall be certified on the use of beanbag shotguns. Officers shall receive annual beanbag shotgun in-service training, including proficiency and policy changes, if any.

In addition to these policy provisions, the Subcommittee is concerned about the current use of a shotgun for beanbag rounds that can also be loaded with live rounds. Despite precautions being taken by the PPB to ensure that live rounds are not mistakenly loaded into a shotgun intended for beanbag rounds that is not enough. The PPB should replace its current beanbag shotguns with shotguns that can only fire beanbag rounds.

RECOMMENDATION 111215-5

Rename and Revise Directive 1051.00, Electronic Control Weapon System, to Clarify When the Use of Conducted Electrical Weapons [Tasers] Is Authorized.

FULL TEXT:

Rename and Revise Directive 1051.00, Electronic Control Weapon System, to Clarify When the Use of Conducted Electrical Weapons [Tasers] Is Authorized:

Consistent with the Conducted Electrical Weapon policies of the Seattle Police Department and the New Orleans Police Department, the directive on the use of tasers should be renamed "Conducted Electrical Weapons (CEW)."

The revised directive should include most if not all of the policy provisions found in New Orleans Police Department, Chapter 1.3, Conducted Electrical Weapon (CEW) (attached).

A conducted electrical weapon (CEW), or taser, is a weapon. Directive 1051.00 should be rewritten to clarify when the use of the taser is authorized and include at least the following:

A taser in probe deployment is designed to stimulate a portion of the nervous system with sufficient electrical energy to bring about uncontrolled muscle contractions which override an individual's voluntary motor function. Drive stun mode occurs when the taser makes direct contact with the subject's body and does not override an individual's motor responses. It is intended to cause significant pain. Use of the taser in probe deployment is preferred in some circumstances over use in drive stun mode, which can only be used at close range and may cause marks and scarring.

Before resorting to the use of a taser, officers shall use all reasonable de-escalation techniques and tools which are available to them to avoid the use of such force.

Officers shall use tasers only when such force is necessary to protect the officer, the subject, or another party from physical harm, and other less intrusive means would be ineffective.

Tasers are only authorized to control a subject who is engaged in aggressive resistance or aggravated resistance as defined in Directive 1010.00, Use of Force, and there is a reasonable expectation that it will be unsafe for officers to approach the subject. In addition, each use of a taser must be objectively reasonable, necessary, and proportionate to the threat or resistance encountered, as required by Directive 1010.00.

Subject to Directive 1010.00, tasers are authorized if the subject has committed a crime of violence and is fleeing, and the person presents the potential to harm officers, himself/herself, or others. Mere flight from a pursuing officers, without known facts or

circumstances, is not sufficient cause for the use of a taser. In addition, the use of a taser on a fleeing subject must be objectively reasonable, necessary, and proportionate to the threat or resistance encountered, as required by Directive 1010.00.

Tasers are not authorized to control a subject who is only passively resistant or actively resistant as defined in Directive 1010.00, Use of Force.

Tasers are intended to control an aggressively resisting individual while minimizing the risk of serious injury.

Officers shall determine the reasonableness of taser use based on all facts or circumstances known to the officer at the time, including but not limited to the subject's age, size, physical condition, and the feasibility of lesser force options.

Use of a taser in the following circumstances is only authorized in situations where there is a risk of death or serious physical injury to the officer or third parties:

- a. When the suspect is in an elevated position where a fall is likely to cause substantial injury or death.
- b. When the suspect is in a location where the suspect could drown.
- c. When the suspect is operating a motor vehicle or motorcycle and the engine is running or is on a bicycle or scooter in motion.
- d. When an individual is handcuffed or otherwise restrained.¹
- e. When an individual is fully contained in a police vehicle.

Unless it would present a danger to the officer or others, officers shall issue a verbal warning, or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to deploying a taser. Officers shall give the subject sufficient time to comply with the warning before deploying the taser. A warning shall be given prior to each deployment of a taser.

Officers shall not target a subject's head, neck, chest, heart, or genital area. The center mass of the back to the buttocks is a viable target. Officers shall target below the ribcage down to the upper thigh, splitting the beltline, if possible. When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered as targets.

¹ There is at least one member of the work group and possibly community members that do not favor the taser being used on someone who is in handcuffs or restrained under any circumstances. The subcommittee expects further discussion on this issue at the DSUFCS meeting on Monday.

The use of tasers for pain compliance against those suffering from mental illness or emotional crisis is prohibited, except when an objectively reasonable person would believe that immediate and serious bodily harm to a person or persons is about to occur, and then only to avoid the use of a higher level of force.

Only one taser at a time may be intentionally used on a subject, except where deadly force is authorized.

After once standard taser cycle (5 seconds), the officer shall reassess the situation to determine if subsequent cycles are necessary, including waiting for a reasonable amount of time to allow the subject to comply with the warning.

Officers should evaluate their force options and give consideration to other force options if a taser is not effective after two (2) cycles on the same person.

Officers shall make every reasonable effort to attempt handcuffing during and between each taser cycle. Officers should avoid deployments of more than two taser cycles unless an objectively reasonable person would believe that immediate and serious bodily harm to a person or persons is about to occur, and then only to avoid the use of a higher level of force.

If the taser is not effective after three (3) cycles on the same person, it shall not be used again on that person.

Except where deadly force would be authorized or where the officer has reasonable cause to believe there is an immediate risk of serious physical injury, officers shall not use tasers against:

- a. Visibly pregnant women;
- b. Elderly persons;
- c. Visibly frail persons;
- d. Young children (individuals perceived to be as young as 18);
- e. Individuals with obviously low body mass; and

Except when deadly force would be authorized, tasers shall not be used when deployment may cause serious physical injury or death from situational hazards. This may include falling, drowning, losing control of a motor vehicle, or igniting a potentially explosive or flammable material or substance.

The taser shall not be used in an indiscriminate manner in situations involving a large crowd (e.g., parade assignments or special events).

Officers are required to justify each application of a taser and why less intrusive levels of force were ineffective.

Close quarters deployment (a range closer than three (3) feet) may not provide adequate probe spread (the distance between probes) to allow the taser to function to its full effectiveness and should be avoided.

The taser shall not be used to torment, elicit statements from, or to punish any individual.

Prior to deploying a taser, an officer shall visually and physically confirm it is, in fact, a taser and not a firearm.

Officers should be cognizant of the risk of positional asphyxia following a taser application and avoid using a restraint technique or position that would impair a subject's respiration, such as the subject being on his or her stomach. Once controlled in police custody, the subject should be continually monitored for any signs of distress.

Officers shall summon medical aid whenever a subject has been struck with a taser.

Officers shall not remove taser barbs or probes that are embedded in flesh. Only emergency medical response personnel shall remove taser barbs or probes that are embedded in flesh.

Officers shall be certified on the use of tasers. Officers shall receive annual taser in-service training, including proficiency and policy changes, if any.

RECOMMENDATION 111215-6

Revise Directive 1090.00, Special Weapon Use, to Clarify What “Special Weapons” the PPB Has Approved or Is Only Testing, When Their Use Is Authorized and Who Can Use Them.

FULL TEXT:

Revise Directive 1090, Special Weapon Use, to Clarify What “Special Weapons” the PPB Has Approved or Is Only Testing, When Their Use Is Authorized and Who Can Use Them.

Directive 1090.00 should be revised to clarify what special weapons the PPB has approved, when their use is authorized, and who can use them, and include at least the following:

A comprehensive list of all of the PPB’s approved special weapons should be provided in the Directive.

A comprehensive list of all of the PPB’s special weapons, whether approved or only being tested, should be published on its website.

Before resorting to the use of a special weapon, officers shall use all reasonable de-escalation techniques and tools which are available to them to avoid the use of such force.

All uses of special weapons must comply with Directive 1010.00, Use of Force.

Consistent with Directive 1010.00, Use of Force, an explanation of the facts and circumstances which must exist before the use of each special weapon is authorized should be clarified and spelled out.

Who can use special weapons should be clarified and spelled out.

RECOMMENDATION 111215-7

Revise Directive 630.15 Foot Pursuits... to further clarify when foot pursuits should be initiated or terminated.

FULL TEXT:

Revise Directive 630.15, Foot Pursuits.

Directive 630.15 should be revised to further clarify when foot pursuits should be initiated or terminated and include at least the following:

Foot pursuits may precipitate the use of unnecessary force as defined by Directive 1010.00. For example, take downs, pushes and tackles used to terminate a foot pursuit can pose a risk of serious physical injury and death to the person being pursued. Take downs, pushes and tackles used to terminate a foot pursuit also pose a risk of injury to the officer employing the technique. These risks are a primary reason why foot pursuits are not required of officers and are a consideration as to whether a foot pursuit should be initiated or terminated.

Foot pursuits should be terminated when partners split and lose sight of each other.

If the identity of the suspect is known, and the suspect is not posing an immediate threat to others, officers should consider terminating the foot pursuit in favor of later apprehension.

Primary considerations in determining whether to initiate or terminate a foot pursuit is the severity of the crime for which the suspect is being pursued, applicable statutes and PPB use of force policies, and the benefit of the suspect's capture.

Radio communication at the initiation of a foot pursuit is mandatory.

In addition, the directive should be revised to eliminate any potential ambiguity on when armed suspects are to be pursued.

RECOMMENDATION 111215-8

Revise Directive 315.30, Satisfactory Performance, should be consistent with all of the COAB's recommendations for rewriting Directive 1010.00, Use of Force.

FULL TEXT:

Revise Directive 315.30, Satisfactory Performance:

Revised Directive 315.30, Satisfactory Performance, should be consistent with all of the COAB's recommendations for rewriting Directive 1010.00, Use of Force.

The mission statement and some of the core principles from rewritten Directive 1010.00 should be restated in revised Directive 315.30. For example, before resorting to the use of force to manage confrontations, officers shall use all reasonable deescalation techniques and tools which are available to them to avoid the use of force.

A comprehensive, well-functioning system to monitor officers to ensure they are performing satisfactorily should be implemented by the PPB. The system should include the use of the existing Employee Information System, as well as other management tools such as annual performance evaluations.

The Employee Information System and any other management tool used to measure satisfactory performance should have the ability to include instances of positive officer behavior, including but not limited to consistent application of best practices and singling out of exemplary performance that goes beyond enumerated policies and procedures in the service of maintaining positive community relations and engenders public trust in the objectivity and fairness of the PPB.

RECOMMENDATION 111215-9

Minimize Incidents of Bystander Endangerment: The PPB should revise its policy in current Directive 1010.00, Use of Force, as may be necessary to ensure that the incidence of bystander endangerments when firearms are discharged or potentially discharged is minimized.

FULL TEXT:

Minimize Incidents of Bystander Endangerment: The PPB should revise its policy in current Directive 1010.00, Use of Force, as may be necessary to ensure that the incidence of bystander endangerments when firearms are discharged or potentially discharged is minimized. To determine whether bystander endangerments are already being minimized, a review of PPB's relevant training and relevant incidents should be undertaken by the PPB's Inspector and the COCL and reported on to the DOJ and the City.

RECOMMENDATION 111215-10

Make Explicit and Unequivocal in Any Appropriate Directives and Training Procedures and Practices that Heightened Risk, Not Any Particular Distance Between Subject and Officer, Determines Whether It Is Appropriate to Draw a Weapon

FULL TEXT:

Make Explicit and Unequivocal in Any Appropriate Directives and Training Procedures and Practices that Heightened Risk, Not Any Particular Distance Between Subject and Officer, Determines Whether It Is Appropriate to Draw a Weapon

The PPB should enact a policy emphasizing that the so-called “21-foot rule” does not exist and/or that it does not per se justify shooting when the suspect is less than 21 feet away and is never applicable if the officer already has his gun drawn and pointed. To determine whether this has been occurring in the absence of a policy, a review of PPB’s relevant training and relevant incidents should be undertaken by the PPB’s Inspector and the COCL and reported on to the DOJ and the City.

RECOMMENDATION 031016-1

Revise Directive 870.20, Custody and Transportation of Subjects to contain only policy statements, to eliminate references to “maximum restraint”, to change “might present an immediate threat” to “is presenting an immediate threat”, and to eliminate the use of terms such as “deranged”, “bizarre”, and “excited delirium” from its directives and training

FULL TEXT:

Directive 870.20, Custody and Transportation of Subjects, should be revised as follows:

1. The directive should contain only policy statements. Since such policy statements apply to all members of the PPB, extraneous and confusing section titles, such as “PROCEDURE” and “Member Responsibilities,” should be eliminated.
2. The PPB prohibited the use of “maximum restraint” in its Tips and Techniques, No. 2015-2, dated April 12, 2015 - “ A violent subject’s legs may be secured together at the knees or ankles such as in the straight leg restraint, but the subject’s legs will not be pulled behind the body and fastened to the handcuffs, belt. etc.” Current Directive 870.20 states that maximum restraints are authorized. The directive should be amended to eliminate any reference to the use of maximum restraints and to specifically state that the use of maximum restraints is prohibited.
3. The words “might present” should be replaced by “is presenting.” This change would result in a current statement in the directive reading as follows: “A reasonable suspicion based on articulable facts that the person is presenting an immediate threat of serious injury to the member or others present if not restrained (per Oregon and Federal law).

The PPB should eliminate the use of terms such as “deranged,” “bizarre,” and “excited delirium” from its directives and training.

RECOMMENDATION 102215-4a

Directive 1010.00, Use of Force: Modifies a portion of Recommendation # 102215-4 to add an intent element to when deadly force may be used.

FULL TEXT:

The COAB has approved Recommendation # 102215-4 which contains revisions to PPB Directive 1010.00, Use of Force. The recommendation contains a detailed prohibition against the use of deadly force except in very limited, extraordinary circumstances.

This recommendation would modify a portion of Recommendation # 102215-4 to add an intent element to when deadly force may be used. The modification to the relevant portion of the previously approved recommendation is contained in the addition of paragraph c. as set forth in italics below.

“Deadly force may only be used in circumstances where the threat of death or serious physical injury to an officer or others is immediate. A danger is immediate only when an objectively reasonable officer would believe that:

- a. The suspect has the means or instrumentalities to do so;
- b. The suspect has the opportunity and ability to use the means or instrumentalities to cause death or serious physical injury; and
- c. The suspect is acting or threatening to use the available means or instrumentalities to cause death or serious physical injury.

RECOMMENDATION 032416-1

Directive 630.50, Emergency Medical Aid, should include an explanation of what kind of First Aid/CPR training is required and offered.

FULL TEXT:

Clarify training required and courses offered – is it CPR and First AID or both?
All are all PPB officers required to take both CPR and First AID?

RECOMMENDATION 032416-2

Directive 870.20, Custody and Transportation of Subjects, should include a description of training required and offered.

FULL TEXT:

Under Handcuffing, 2.1, Change “when possible” to “In the event that handcuffs are cutting off circulation....”

Remove “might” in every space

Define “reasonable suspicion”

Clarify the distinction and definitions of when people are in custody versus non custody

Spell out and define “detoxification holds”

Define “DPSST”

RECOMMENDATION 032416-3

Directive 630.45, Emergency Custody Transports—should be revised

FULL TEXT:

Directive 630.45, Emergency Medical Custody Transports, should be revised as follows:

1. The directive should contain only policy statements. Since such policy statements apply to all members of the PPB, extraneous and confusing section titles, such as “Policy,” “Procedure” and “Member Responsibilities,” should be eliminated.
2. The directive should be clarified and revised so that persons who are seriously injured, seriously ill, unconscious, having difficult breathing or having other serious medical problems are not transported by anyone other than Emergency Medical Services (EMS).
3. Current paragraph 1.1 of the current section titled “Policy” in the directive should be revised to eliminate the term “excited delirium” and to read: “Appears to be agitated, over stimulated, paranoid, disoriented, or extremely restless or to be having involuntary twitching of small muscles or hallucinations.”
4. Current paragraph 1.3 of the current section titled “Policy” in the directive should be revised to read: “Displays respiratory difficulty (per witness statements or self-proclamation) including, but not limited to, shortness of breath or extreme wheezing.”
5. Current paragraph 1.1.3 of the current section titled “Procedure” in the directive shall be revised to read: “EMS personnel at a scene will determine whether an in-custody person is seriously injured, seriously ill, unconscious, having difficult breathing or for any other reason requires medical treatment or further medical evaluation and, if so, only EMS, unless unable to transport, will transport the person to a hospital.”
6. Current paragraph 1.1.4 of the current section titled “Procedure” in the directive should be revised to read: “The PPB values human life and needs to ensure the health and safety of persons is not jeopardized by members transporting persons who have serious medical problems. Members must notify EMS personnel of the custody status of the person (e.g., arrested with criminal charges, police hold, etc.) as well as full disclosure of the following:
 - a. the type and amount of any force used against the person including, but not limited to:
 - i. whether the person was struck by an officer or another person and, if so, with what (e.g., fist, elbow, knee, foot, baton, flashlight, or bean bag), how many times was the person struck, and what reaction person appeared to have to being struck;

ii. whether the person was pushed, tackled or taken down, or for any reason struck a hard surface (e.g., iron railing, brick wall, pavement, or sidewalk) and what reaction the person appeared to have to that event;

iii. any use of the taser on the person, how many times was the person tasered, and what reaction the person appeared to have to each use of the taser; and

iv. any use of pepper spray on the person and what reaction the person appeared to have to being pepper sprayed.

b. either prior to (per witness statements or self-proclamation) or during police contact, did the person appear to have had or to be:

i. agitated, over stimulated, paranoid, disoriented, extremely restless involuntary twitching of small muscles, or hallucinations;

ii. any seizure;

iii. any respiratory difficulty including, but not limited to, shortness or breath or extreme wheezing;

iv. obvious signs of head trauma or loss of consciousness;

v. signs of extreme intoxication and/or under the influence of drugs in conjunction with any of the above symptoms and has been involved in a prolonged physical altercation;

vi. admits to being under the influence of cocaine or amphetamine substances and has been involved in a prolonged physical altercation.

c. any complaints by the person regarding his medical condition including, but not limited to:

i. pain;

ii. difficulty breathing; or

iii. a need for the person's prescribed medication.

7. Current paragraph 1.3.2 of the current section titled "Procedure" in the directive should be revised to read: "If the medical staff at the Multnomah County Detention Center, another jail or a holding facility refuses to admit a person transported by a member of the PPB to the location, EMS will be called. Persons who are seriously injured, seriously ill, unconscious, having difficult breathing or having other serious medical problems will not be transported to the hospital by anyone other than EMS.

RECOMMENDATION 032416-5

Directive 630.15, Foot Pursuits—should clarify which kinds of foot pursuits should be initiated or terminated

FULL TEXT:

Revise Directive 630.15, Foot Pursuits, with regard to solo foot pursuits.

Directive 630.15 should be revised to clarify when solo foot pursuits should be initiated or terminated and include at least the following:

Officers shall not engage in or continue a foot pursuit while acting alone unless the delay in the apprehension of the suspect would present an immediate threat of death or serious physical injury to the officer or civilians. Even if that level of threat exists, the officer acting alone has the discretion to not engage or continue a foot pursuit. If exigent circumstances exist, the lone officer shall keep the suspect in sight from a safe distance and help coordinate containment.