

GENERAL ORDER 1.5.1

Use of Force

GENERAL ORDER CROSS-REFERENCE: Chapter 47

SUMMARY

Establishes a procedure encompassing the use of force by Department members.

DISCUSSION

It is the policy of the Springfield Police Department to value and preserve human life. The use of force by police officers and detention officers is a matter of concern to the public, as well as to law enforcement. Officers are constantly involved in numerous and varied human encounters and when warranted, may use force in carrying out their duties. This Department recognizes the use of force is a serious responsibility that requires constant evaluation.

Officers must understand and appreciate the limitations of their authority particularly in overcoming resistance from those with whom they come in official contact. The decision to use force rests with each officer. It is expected officers will make such decisions in a professional, impartial, and safe manner in accordance with law and policy directives.

The department provides training to officers to prevent the unnecessary use of force; trains supervisors to adequately conduct post-use-of-force investigations; and prepares members for their reactions to stress during an incident, as well as after an incident.

POLICY

I

USE OF FORCE

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 only use the level of force which a reasonably prudent officer would use under the same or similar circumstances. Officers shall strive to use the minimum force necessary to accomplish their lawful objectives. "Reasonableness" of the force used shall be judged from the perspective of a reasonable officer, with like or similar training and experience, on the scene at the time of the incident.

Officers may use force in five general instances only;

1. Self-defense.
2. Defense of others.
3. To effect an arrest (including a Police Officer Hold (ORS 426.228)).
4. To overcome resistance.
5. To prevent escape.

ORS 131.615 governs the stopping of persons and provides:

- (1) A peace officer who reasonably suspects that a person has committed or is about to commit a crime may stop the person and, after informing the person that the peace officer is a peace officer, make a reasonable inquiry.
- (2) The detention and inquiry shall be conducted in the vicinity of the stop and for no longer than a reasonable time.
- (3) The inquiry shall be reasonable if it is limited to:
 - (a) The immediate circumstances that aroused the officer's suspicion of criminal activity; and
 - (b) Other circumstances arising during the course of the detention and inquiry that give rise to reasonable suspicion of criminal activity; and
 - (c) Ensuring the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.
- (4) The inquiry may include a request for consent to search in relation to the circumstances specified in subsection (3) of this section or to search for items of evidence otherwise subject to search or seizure under ORS 133.535.
- (5) A peace officer making a stop may use the degree of force reasonably necessary to make the stop and ensure the safety of the peace officer, the person stopped or other persons who are present.

ORS 810.410 governs the use of force while enforcing traffic crimes and infractions. In accordance with this policy, an officer may use the degree of force reasonably necessary to make the stop and ensure the safety of the officer, the person stopped or other persons present.

ORS 161.205 states that the use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under the following circumstance: A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use physical force upon that person to the extent that the person reasonably believes it necessary to thwart the result.

HB 4301 Section 7 (2020) states as follows:

- (1) A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe:
 - (a) That the person poses an imminent threat of physical injury to the peace officer or to a third person; or
 - (b) That the use of physical force is necessary to:
 - (A) Make a lawful arrest when the peace officer has probable cause to believe the person has committed a crime; or
 - (B) Prevent the escape from custody of the person when the peace officer

has probable cause to believe the person has committed a crime.

(2) A peace officer may use physical force upon another person under this section only to the degree that the peace officer reasonably believes necessary to prevent physical injury under subsection (a) of this section or to carry out a purpose described in subsection (b) of this section.

(3) Prior to using physical force upon another person, if the peace officer has a reasonable opportunity to do so, the police officer shall:

- (a) Consider alternatives such as verbal de-escalation, waiting or using other available resources and techniques if reasonable, safe and feasible; and
- (b) Give a verbal warning to the person that physical force may be used and provide the person with a reasonable opportunity to comply.

Under HB 4301 Section 9 (2020) a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances, which if true, would constitute an offense. An officer who is making an arrest is justified in using the physical force prescribed in this policy unless the arrest is unlawful and is known by the officer to be unlawful.

Use of Deadly Physical Force

HB 4301 Section 8 (2020) governs the lawful use of deadly force. In accordance with this policy and state law an officer may use deadly force only when it is objectively reasonable, under the totality of circumstances known to the police officer, to believe that the person poses an imminent threat of death or serious physical injury to the police officer or to a third person and the use of deadly physical force is necessary to:

- (1) Make a lawful arrest when the police officer has probable cause to believe the person has committed a violent felony:
- (2) Defend the police officer or a third person from the imminent threat of death or serious physical injury.
- (3) Prior to using deadly physical force upon another person, if the police officer has a reasonable opportunity to do so, the police officer shall:
 - (a) Consider alternatives such as verbal de-escalation, waiting, using other available resources and techniques if reasonable, safe and feasible, or using a lesser degree of force; and
 - (b) Give a verbal warning to the person that deadly physical force may be used and provide the person a reasonable opportunity to comply.
- (4) As used in this section, “violent felony has the meaning given that term in ORS 419A.004. “Violent felony” means any offense that, if committed by an adult, would constitute a felony and:

- (a) Involves actual or threatened serious physical injury to a victim; or
- (b) Is a sexual offense. As used in this paragraph “sexual offense” has the meaning given the term sex crime in ORS 163A.005.

Under HB 4301 Section 9 (2020) a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances, which if true, would constitute an offense. An officer who is making an arrest is justified in using the physical force prescribed in this policy unless the arrest is unlawful and is known by the officer to be unlawful.

II

AUTHORIZED WEAPONS AND FIREARMS

GO 1.6.1 provides direction on department authorized weapons and their use. Prior to being authorized to carry a firearm or other department issued weapons, all officers shall be provided a copy of GO 1.6.1 and receive instruction on its provisions.

III

USE OF FORCE STANDARD

Given that no policy reasonably predicts every situation an officer may encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force for each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires the officer to actually sustain physical injury before applying reasonable force.

Any application of force by a member of this department shall be evaluated by the standard of “reasonableness.” This standard recognizes that officers are expected to make split second decisions and the amount of time available to respond to changing circumstances may impact an officer’s decision. When evaluating the level of force to be applied, or whether an officer has used reasonable force, a number of factors shall be taken into consideration. Those factors include but are not limited to:

1. The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
2. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects).
3. Influence of drugs or alcohol.
4. Proximity of weapons.
5. Availability of other options including de-escalation techniques (What resources are reasonably available to the officer under the circumstances).
6. Seriousness of the suspected offense or reason for contact with the individual.
7. Training and experience of the officer.

8. Potential for injury to citizens, officers, and suspects.
9. Risk of escape.
10. Other exigent circumstances.

IV

DE-ESCALATION

For the purposes of this section “de-escalation” is defined as follows: 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 use of force or with a reduction in the force necessary.

It is the policy of the Springfield Police Department that when the totality of the circumstances reasonably known to the officer indicate it is safe, prudent, and feasible to do so, the officer shall use de-escalation techniques.

De-escalation techniques include but are not limited to:

1. Calling for additional officers. The number of officers on scene may increase the available force options, a circumstance which has the potential to increase the ability of the officer(s) to reduce the overall amount of force used.
2. Requesting specialty assistance, such as Crisis Negotiators or Mental Health workers.
3. Tactical repositioning
4. Using distance, cover and concealment.
5. Containment of the threat or scene
6. Communicating from a safe position to gain the subject’s compliance through the use of verbal persuasion, advisements, and/or warnings. Generally, communication techniques should engage active listening to calm agitated individuals and promote rational decision-making.

Pursuant to HB 4301 Section 7 (2020), 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 reasonable time and opportunity to submit to verbal commands before force is used.

An officer is not expected to employ de-escalation techniques that could jeopardize the safety of the community or any officer. The immediacy of a threat or the need to take immediate action to prevent death or serious physical injury may foreclose the utilization of the de-escalation techniques by officers. If force is used officers may either escalate or de-escalate their use of force as the situation progresses or as circumstances change.

The application of de-escalation techniques will be reviewed using an objectively reasonable officer standard.

All officers shall receive annual training designed to reinforce the department's policy objective of minimizing the number of use of force incidents.

All officers shall receive annual training designed to provide techniques for the use of and reinforce the importance of de-escalation.

V

CHOKE HOLDS, HEAD, NECK AND BACK RESTRAINTS

A department member is not justified to use physical force that impedes the breathing or circulation of the blood of another person by applying pressure to the throat or neck of the other person, except in circumstances in which deadly physical force is justified.

VI

MEDICAL ASSISTANCE

Medical assistance shall be obtained as soon as it is safe to do so for subjects who have sustained physical injury reasonably requiring medical attention, complained of injury, sustained serious physical injury, or have been rendered unconscious. Medical attention for superficial injuries will be at the discretion of the on-duty supervisor. See GO 1.6.1, XI for specific treatment for individuals whose primary injury is due to their exposure to chemical agents or a Conducted Electrical Weapon (CEW- Taser).

VII

OFFICER REPORTING REQUIREMENTS

Officers shall notify their supervisor as soon as practical following the application of physical force any time the use of force involves the use of Conducted Electrical Weapon (CEW - Taser), chemical agents, impact weapons (i.e. baton or asp), focused blows, lateral vascular neck restraint, hobble, firearms, or any force resulting in injury or complaint of injury.

Except when an officer's use of force causes death or serious injury or involves the intentional discharge of a firearm at another person, which shall be handled in accordance with provisions of sections IX through X, officers shall include information in their incident report describing:

1. Level of resistance (i.e. static, escape, physical resist, assault officer).
2. Weapon used by suspect.
3. Type of force applied (i.e. CEW, direct contact, OC, physical control, impact weapons).
4. Any injuries sustained by department personnel.
5. Any injury to the suspect or threat of injury to another person.
6. Any medical treatment obtained by the suspect or department personnel

7. Any other reasonably relevant information that explains or justifies the officer's use of force, such as factors listed in section III of this policy.

VIII

SUPERVISORY RESPONSIBILITIES

Supervisors shall review the facts and circumstances of each use of force incident to ensure compliance with State law and Department policy. If the supervisor determines noncompliance, or questions its compliance, with State Law and Department Policy, they shall forward their findings to the Chief of Police with the request that the case be assigned for further investigation.

Copies of all reports involving the use of force shall be routed to the Professional Standards Sergeant for review. If the Professional Standards Sergeant determines noncompliance, or questions its compliance, with State Law and Department Policy, they shall forward their findings to the Chief of Police with the request that the case be assigned for further investigation.

IX

ON SCENE RESPONSIBILITIES IMMEDIATELY FOLLOWING THE USE OF DEADLY FORCE INCIDENT

The following definitions apply to the on-scene responsibilities for investigations involving the use of deadly force.

Involved Member - a Department member who applies deadly force or directs another to use deadly physical force, or a member who has used physical force against, or a member who assumes control, care or custody of, a subject who dies in police custody.

Public Safety Statement - a required response by a member to questions asked by an on-scene supervisor to elicit information necessary to protect life, preserve evidence, and/or ensure public safety.

Witness Member - a Department member who observes or has firsthand knowledge of the events surrounding an in-custody death or the use of deadly physical force by another member, and other than observing the incident, did not use deadly physical force. Additionally, a member who observes or has firsthand knowledge of the events surrounding a member's direction to another to use deadly force.

The involved member(s) shall notify an on-duty supervisor as soon as practicable that they are an involved member, as defined in this Order.

If directed by the on-scene supervisor, the involved member(s) shall provide a Public

Safety Statement. The on-scene supervisor shall then read from the Springfield Police Department Public Safety Statement (G.O. 1.5.1 Attachment A), asking the listed questions exactly as written, and take necessary action based on the answers. The Supervisor will disseminate public safety information immediately via radio or as otherwise appropriate. After providing any required Public Safety Statement to the on-scene supervisor, involved member(s) may consult with their union and/or legal representative. The involved member(s) may elect to provide a voluntary statement and on-scene walk-through to the investigating IDFIT Detective. An involved member(s) has the right to decline a request by IDFIT Detectives to provide a voluntary statement and on-scene walk-through.

Witness Member(s) shall make it known to the on-scene supervisor that they are a witness to the incident. If directed by the on-scene supervisor, witness member(s) shall provide an on-scene Public Safety Statement. The on-scene supervisor shall then read from the Springfield Police Department Public Safety Statement (G.O. 1.5.1 Attachment A), asking the listed questions exactly as written, and take necessary action based on the answers. The Supervisor will disseminate public safety information immediately via radio or as otherwise appropriate. After providing any required Public Safety Statement to the on-scene supervisor, witness member(s) may consult on scene with their union and/or legal representative.

On-Scene Supervisor: The on-scene supervisor shall take immediate action to:

1. Stabilize the situation;
2. Locate and separate all witnesses and involved members. If the number of individuals to be physically separated is so great as to be impractical, a supervisor or detective shall be posted to ensure that no communication regarding the incident takes place;
3. Obtain from witness members and other sources the public safety information. If the on-scene supervisor is unable to obtain the necessary public safety information from witness members, initial observations, and/or other sources, the arriving supervisor shall require the involved member(s) to provide a Public Safety Statement, in accordance with Attachment A of this policy;
4. Document the involved and/or witness member's response(s) to the Public Safety Statement;
5. If ambulance transport is required, ensure that someone other than the involved or witness member(s) is assigned to accompany the injured member or community member to the hospital in the ambulance;
6. Ensure that a single entry point into and out of the scene is established and advise dispatch of its location;
7. Ensure that a Crime Scene Log is maintained at the entry point;
8. Ensure notification of the appropriate command officers, IDFIT, the Chief of Police, Risk Management, union representatives, and others as may be appropriate.

The on-scene supervisor is responsible for the immediate safety of the public and preservation of the scene. Supervisors shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime

or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor, detective supervisor or other designated person.

The on-scene supervisor shall initiate a written Crime Scene Log as soon as practical and consider the following information when accomplishing the crime scene log:

1. The scene(s) must be secured immediately with a perimeter of sufficient distance to safeguard evidence. In some circumstances, an inner and an outer perimeter may be appropriate.
2. Access to the scene(s) shall be limited to only those officials who must enter for criminal investigative purpose.
3. The Crime Scene Log (Crime Scene Log) identify all persons entering the scene(s), the time of their entry and exit, and the reason for entry.
4. When not needed for medical and fire suppression efforts, fire and ambulance personnel should be excluded from the crime scene.
5. Unless exigent circumstances exist, no items shall be moved inside the scene(s), or removed from a scene, without approval of the scene supervisor, unless absolutely necessary for public or officer safety or the preservation of evidence. If removal without approval is necessary, the removal must be logged. The log shall state the identity of the person removing the described object, the reason for removal, and the time of removal. The item should be photographed in its original location, and if possible, diagramed prior to removal.

Other Responding Officers: Any Officer that responds to, but was not directly involved in or witness to, an incident involving the use of Deadly Physical Force shall, as soon a reasonably prudent and prior to the end of his/her shift, prepare a police report documenting his/her actions, observations, and any other relevant conduct.

Scene Responsibility: Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor, detective supervisor or other designated person.

The officer that has assumed or been assigned to maintain the integrity and security of the crime or disaster scene shall continue to maintain a written Crime Scene Log as soon as practical and consider the following information when accomplishing the crime scene log:

1. The scene(s) must be secured immediately with a perimeter of sufficient distance to safeguard evidence. In some circumstances, an inner and an outer perimeter may be appropriate.
2. Access to the scene(s) shall be limited to only those officials who must enter for criminal investigative purpose.
3. The Crime Scene Log (Crime Scene Log) identify all persons entering the scene(s), the time of their entry and exit, and the reason for entry.
4. When not needed for medical and fire suppression efforts, fire and ambulance

- personnel should be excluded from the crime scene.
5. Unless exigent circumstances exist, no items shall be moved inside the scene(s), or removed from a scene, without approval of the scene supervisor, unless absolutely necessary for public or officer safety or the preservation of evidence. If removal without approval is necessary, the removal must be logged. The log shall state the identity of the person removing the described object, the reason for removal, and the time of removal. The item should be photographed in its original location, and if possible, diagramed prior to removal.

X

USE OF FORCE INVESTIGATIONS

When an officer's use of force: (1) involves the intentional discharge of a firearm at another person, (2) causes death or serious physical injury by any means (serious physical injury as defined in ORS 161.015(8)), (3) involves intermediate or serious force events in which a suspect or officer suffers a physical injury requiring medical treatment from a licensed medical provider, (4) involves any use of force referred by a supervisor for further investigation, or (5) involves an unintentional discharge of a firearm causing death or physical injury, the following procedures shall be followed:

Definition: For purposes of the following sections, the term "firearm" shall exclude any device designed or used to project a missile other than a bullet or shot, such as gas guns, use of a shotgun or other firearm for discharging ferret rounds, less-lethal type rounds, or other special purpose rounds designed for inanimate objects, except when such use results in physical injury or death of any person.

When a member's use of a firearm or any other weapon has caused death or serious physical injury, that weapon shall be taken into custody by an IDFIT investigator, supervisor, or command officer. The weapon of any officer shall also be surrendered, upon direction, to a supervisor for tests when necessary to determine which weapon caused injury and/or death. No officer shall refuse to surrender any weapon. Unless circumstances deem otherwise, the supervisor shall, as soon as possible, replace the surrendered weapon.

The department shall conduct an investigation, which may include separate administrative, civil liability, or criminal investigations. The provisions of this policy govern administrative investigations. If assigned, criminal and civil liability investigations will be conducted in accordance with law and procedure governing these types of investigations.

Involved officers shall be treated with sensitivity and will be afforded all their constitutional rights. As appropriate, they will be provided opportunities to confer with their attorney, association representative, clergy, psychologist, psychiatrist, etc.

Any in-depth interviews shall take place in a non-coercive, neutral environment, removed from the scene. The interview site shall be chosen taking the emotional and physical state of the involved officer into account. Every effort shall be made to minimize the number of interviews

conducted. The officer shall be afforded a reasonable period to prepare for the interview and to allow for response of the officer's attorney and/or association representative. Reasonable breaks shall be afforded the officer during the course of the interview.

XI

FORCE REVIEW COMMITTEE

A Force Review Committee shall be appointed to review every use of force described in section X, paragraph 1. The Committee will be appointed by the Chief of Police and will have three standing members to include the Patrol Division Commander, the Defensive Tactics Supervisor and the Firearms Instructor Supervisor. The standing members will be provided specific training (DPSST certified) on conducting administrative investigations and review of deadly force events. All members of the Force Review Committee will at a minimum have completed the 40 hour CIT training prior to being appointed a Committee member and one of the three standing members will be recognized within the Department as having an expertise in crisis intervention training. Ad hoc members shall include the involved officer's supervisor, and a firearms or defensive tactics instructor. The involved officer may select one other sworn member of the Department to serve on the Committee. The Patrol Division Commander shall chair the Committee.

The Committee shall determine findings of fact as to the circumstances surrounding the use of force. They shall consider the reasonableness of the officer's actions in accordance with law and the guidelines of this policy. The primary goals of the Committee are to thoroughly examine use of force incidents to identify areas for improvement in training, tactics, equipment or policy changes that will better prepare Department personnel for future use of force events and any reasonable alternatives to the actions taken that could potentially eliminate or reduce the likelihood of a use of the intermediate or greater level of force in the future. The Committee will examine not only the actual use of force, but the events/tactics and decision making of each involved officer that led up to the utilization of force and make appropriate recommendations as to policy or training modifications. The Committee shall forward their findings to the Chief of Police in writing.

The written response from the Committee will be a report in a fixed format consisting of the following sections:

Incident Summary

Timelines

Identification of Involved Personnel

Debriefs of each Involved Officer

Observations concerning:

1. Pre-use-of-force decision making that includes identification of key decision points for each involved officer, whether de-escalation was reasonably safe, prudent, and feasible and if so, whether attempts at de-escalation were made.
2. Policy
3. Supervision

4. Training; and
5. Equipment and Personnel.

Findings, concerning:

1. Equipment and personnel; and
2. Whether the involved officers' pre-use-of-force tactical decision making was consistent with training and policy.

Recommendations and Conclusions.

The Committee is not charged with making any disciplinary recommendations.

The Chief of Police will make the final decision whether the officer's use of force was within policy. The Chief of Police shall provide the involved officer with a written statement of his findings within a reasonable time.

Upon conclusion of the Force Review Committee, the Committee will present its findings to the involved employees prior to presentation to the Chief of Police. The involved members, if they so choose, may respond to the Use of Force Committee for consideration prior to the committee's presentation to the Chief of Police.

If the use of force is determined not to be within policy, one or more of the following actions shall be taken:

1. If a violation of law or Department rules or regulation is substantiated, the matter shall be processed in accordance with Departmental disciplinary procedures.
2. If an incident is deemed to be caused by inadequate training, the matter shall be referred to the Professional Standards and Training Sergeant to ensure proper training is provided.
3. If the death or injury is caused by an accident, the matter may be dealt with as disciplinary or training depending upon the circumstances.

The Chief of Police is also responsible for implementation of the recommendations for change in policy, supervision, training, equipment and personnel, if any, within six months of the date of the report.

XII

USE OF FORCE INVESTIGATION REPORTS

Use of force summaries and Force Review Committee findings shall be maintained by the Professional Standards and Training Unit. The Professional Standards and Training Sergeant shall, on an annual basis, conduct an analysis to determine the need for training and or policy modifications.

XIII

MEMBERS INVOLVED IN DEATH/SERIOUS INJURY INCIDENTS

A member whose use of force results in serious injury or death to any person shall be placed on administrative leave with pay. The on-duty supervisor or Command Officer may direct such action pending approval by the Chief of Police. The administrative leave with pay shall be for a period of time which allows for the initial administrative review.

Following the initial administrative review, which is to determine the preliminary facts of the incident, the member may be returned to regular or modified duty as appropriate.

Employees shall be encouraged to make full use of the Employee Assistance Program. G.O. 22.3.2 Employee Wellness provides information on available employee assistance programs.

Andrew Shearer
Chief of Police

Priority