



Approved:  
*Chief Marcia Harnden*

Subject:

# 240. Use of Force

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## 240.1: PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

### 240.1.1: DEFINITIONS

**Force** – The application of physical techniques or tactics, chemical agents, or weapons to another person. Consensual searches or simple application of restraints such as handcuffs do not constitute a use of force under this policy.

**Deadly Force** – Physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury. ([ORS 161.015](#))

**Serious Physical Injury** – Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ. (ORS 161.015)

**Objectively Reasonable Force (Graham vs. Connor)** – In determining whether force used by an officer is objectively reasonable, all of the facts and circumstances with which the officer was confronted are considered, including:

- a. Whether the suspect posed an immediate threat to the safety of the officer(s) or other persons;
- b. The severity of the crime or other circumstance known to the officer(s) at the time force was applied;
- c. Whether the subject actively resisted arrest or seizure;
- d. Whether the subject attempted to evade arrest or seizure by flight.

**De-escalation** – Means acting or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation so that more time, options, and resources can be called upon to safely and effectively resolve the incident.

**De minimis Force** – A physical interaction meant to separate, guide, and/or control without the use of formal control techniques that are intended to or reasonably likely to cause any pain or injury.

## 240.2: POLICY

**It is the policy of the Albany Police Department to recognize and respect the value of all human life and dignity without prejudice. Officers are vested with the authority to use reasonable force and to protect the public welfare, and may use reasonable force, when warranted, in carrying out their duties. To ensure that force is consistently applied appropriately, the Albany Police Department will monitor and evaluate the use of force to carefully balance all interests.**

### 240.2.1: DUTY TO INTERCEDE

- a. Without regard to rank or assignment, any officer present and observing another officer using force that is clearly beyond the objectively reasonable standard shall, when in a position to do so and within their scope of training, intercede to prevent or stop the continued use of unreasonable force.
- b. Any officer who witnesses an excessive use of force by another officer of this department shall report the behavior to a supervisor as soon as practical, but no later than 72 hours after witnessing the misconduct.
- c. Retaliation or discrimination against any officer who intervenes, or reports misconduct is prohibited ([ORS 659A.199, Standards of Conduct: Policy 0800](#)).
- d. Supervisors are required to act on the report by documenting the incident and notifying the Chief of Police with the report of misconduct.
- e. Misconduct is defined for use of force as unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of this policy.
- f. Review [Standards of Conduct: Policy 0800](#), Duty to Intervene: section 0800.7 for circumstances not related to use of force.

## 240.3: USE OF FORCE

- a. Officers shall use only that amount of force which is objectively reasonable according to the definition of **Objectively Reasonable Force** in Section 240.1.1.
- b. Given that no policy can realistically predict every situation with which an officer might be confronted, officers are not required to progress through the levels of force one level at a time.

- c. An assessment of the specifics of each situation may indicate to the officer that a particular level of force may be ineffective or inappropriate and another level of force would be more effective or appropriate.

#### 240.4: USE OF DEADLY FORCE

Officers may use deadly force to protect themselves or others from what the officer reasonably believes to be an imminent threat of death or serious physical injury. Circumstances include, but are not limited to:

- a. Protection of the officer or others from what the officer reasonably believes to be an imminent threat of death or serious physical injury;
- b. To stop a fleeing suspect when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious physical injury or death to any other person if not immediately apprehended. Under these circumstances, and when practical, a verbal warning should precede the use of deadly force;
- c. For purposes of this policy, "imminent" does not mean "immediate" or "instantaneous". Rather, "imminent" means that a course of events are in motion which, if allowed to continue, would likely result in seriously physical injury or death.
- d. Use of deadly force is prohibited against individuals who pose a danger only to themselves in circumstances where officers have knowledge of the fact the individual only poses a danger to themselves.
- e. The use of choke holds, similar neck restraints, or knowingly using physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, are considered deadly force and only to be used in circumstances when the officer reasonably believes there is imminent threat of death, serious physical injury, or as provided in [ORS 161.242](#).

#### 240.4.1: DE-ESCALATION TECHNIQUES

It is the policy of the Albany Police Department that when the totality of the circumstances reasonably known to the officer indicate it is safe, prudent, and feasible to do so, an officer(s) should make reasonable attempts to use de-escalation techniques to slow down, reduce the intensity, or stabilize the situation so that more time, options and/or resources may become available to resolve the situation safely and effectively. De-escalation techniques include, but are not limited to:

- a. 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.
- b. Requesting specialty assistance, such as Crisis Negotiators or Mental Health workers.
- c. Tactical repositioning.

- d. Using distance, cover and concealment.
- e. Containment of the threat or scene.
- f. 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.
- g. Other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject.

An officer is not expected to employ de-escalation techniques that could jeopardize the safety of the community or of 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 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.

#### **240.4.2: SHOOTING AT MOVING VEHICLES**

- a. Officers should only discharge a firearm at occupants of a moving vehicle when the officer reasonably believes that there are no other reasonable means to avert the threat of the vehicle, such as moving out of the path of the vehicle, or if the occupants of the vehicle present an imminent threat as defined in Section 240.4.
- b. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **240.4.3: WARNING SHOTS**

Warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the officer reasonably believes that they are necessary, effective, and reasonably safe.

#### **240.4.4: DISPLAY OF FIREARM**

Officers should only display their firearm at a person if they believe the use of deadly force is reasonably likely. Any display of a firearm is considered a reportable use of force pursuant to this policy.

- a. Display of firearm is defined as the pointing of an officer's firearm at a person as a means to gain compliance or in reasonable anticipation of use of deadly force.

#### **240.4.5: KNIVES**

- a. Members carrying a knife during their shift, do so for the primary purpose of utilitarian needs (i.e. water rescue calls, rope cutting, cutting of seatbelts, scraping license tags, cutting evidence tape, etc.).

- b. If justified in the protection of the member's life or life of another, knives may be used as any other object readily capable of inflicting serious physical injury or death. Use of a knife in this manner will be considered a Use of Deadly Force.
- c. Members carrying knives either folding or fixed blade design, shall adhere to the following criteria while carrying the knife on duty:
  - 1) The knife shall be carried in a discreet location so as to not draw attention to its presence;
  - 2) The knife blade shall not exceed 4 1/2 inches in length for a folding knife and 6 inches in length for a fixed blade. This exclusion does not apply to the carrying of folding pocketknives that are not otherwise prohibited by law;
  - 3) The knife shall be secured so as to not become easily dislodged or dropped during an altercation or physical encounter;
  - 4) The knife shall not be unnecessarily displayed in public;
  - 5) A folding knife may be carried on the gun belt, in a black case that matches current duty gear;
  - 6) A fixed blade knife must be secured in a scabbard, a sheath, or other fastening device to ensure officer safety, retention, and concealment of the entire knife (blade and handle) from public display;
  - 7) SWAT members who are performing SWAT functions and in SWAT uniform, are allowed to carry approved knives in a non-discreet location.

### 240.5: CONTROL DEVICES AND TECHNIQUES

In order to control subjects who are violent or who demonstrate the intent to be violent, the Albany Police Department authorizes officers to use control devices in accordance with the guidelines in this policy. All employees who are issued control devices shall be provided with a copy of this policy which governs their use.

#### 240.5.1: ISSUANCE AND DEPLOYMENT OF CONTROL DEVICES

- a. **Issuance** – Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee. Only members who have received and reviewed the Use of Force: Policy 240 and successfully completed department-approved training in the use of any control device are authorized to carry and use that device. Any member who fails to show proficiency and attend training annually on their control devices shall immediately be assigned to the training division for remedial training, prior to returning to duty.
- b. **Deployment** – Control devices may be used when a decision has been made to control, restrain, or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

- c. **Considerations** – When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### 240.5.2: RESPONSIBILITIES RELATED TO CONTROL DEVICES

- a. **Shift Supervisor** – May authorize the use of a control device by selected personnel or members of specialized units who have completed required training on the device.
- b. **Individual User** – Report damaged or inoperable equipment or munitions to supervisor. If appropriate, Damage to City Property forms shall also be completed and forwarded as necessary.
- c. **Survival Skills Coordinator** – Control and inventory and issuance of all control devices and ensure that all damaged, inoperative, outdated, or expended devices or munitions are properly disposed of, repaired, or replaced. Ensure that inspections on various devices are periodically inspected and that inspections are properly documented.

### 240.5.3: BATON

- a. **Issuance and Deployment-** The Albany Police Department currently issues the ASP 26" baton for uniformed patrol. Uniformed personnel shall carry the baton in its authorized holder on the equipment belt or externally worn duty vest.
- b. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.
- c. The Department authorizes an end cap replacement as approved by the Survival Skills Coordinator or his/her designee.
- 1) Any member who finds an ASP baton that is unsafe, not functioning properly, or in need of repair, shall report the issue immediately to their supervisor. The ASP baton shall be taken out of service and a replacement issued. Replacements are located in the supervisor's locker within the ready room.
- d. Only members who have successfully completed department-approved training may be issued and carry an impact baton.
- 1) With approval from the Survival Skills Coordinator, members who have successfully completed department-approved training may purchase and carry:
- A. RCB Baton in 26" length in lieu of the ASP model baton.
- B. Straight Baton not to exceed 29" in length or 1 ¼ inch in diameter in addition to the ASP model baton. The straight baton may be made from any hardwood. The entire baton must be constructed of wood, be natural wood grain, or black in color. No other material may be inserted

or attached other than a rubber grommet. The officer's straight baton and how it is carried shall be inspected and approved by the Survival Skills Coordinator prior to duty use.

#### 240.5.4: OLEORESIN CAPSICUM (OC)

a. **Issuance and Deployment** –

- 1) Only members who have successfully completed department-approved training may be issued and carry OC spray. The Albany Police Department currently issues Defense Technology MK-3 .7% OC Spray. Uniformed personnel shall carry the OC spray device in its holster on the equipment belt, externally worn on the duty vest, or in the members patrol bag readily available for deployment. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.
- 2) Any member who finds an OC canister that is unsafe, not functioning properly, expired, or in need of repair, shall report the issue immediately to their supervisor. The OC canister shall be taken out of service and a replacement issued. Replacements are located in the supervisor's locker within the ready room.

b. **Kinetic Energy OC Projectiles** – Kinetic Energy OC Projectiles should only be utilized by authorized personnel and should not be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

c. **Treatment for OC Exposure** – Persons who have been exposed to OC spray or projectiles should be provided with clean water to cleanse the affected areas as soon as practical. Persons who complain of further or more severe effects shall be examined by medical personnel.

d. **Post-Application Notice** – Whenever tear gas or OC has been introduced into a residence, building interior, vehicle, or other enclosed area, officers should advise the owners of the possible presence of residue which could result in irritation or injury if not properly cleaned at the owner's expense. Such advisement, including the identity of the person advised, should be documented in related police reports.

#### 240.5.5: CHEMICAL AGENT

a. **Deployment** – Only the Watch Supervisor, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of chemical agents (CS gas), and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

b. **Contingency Planning** – When practical, fire personnel should be summoned to the scene to stage prior to the deployment of chemical agents to control any fires and to assist in providing evacuation and medical aid as needed.

**240.5.6: KINETIC ENERGY PROJECTILES (40MM)**

- a. **Deployment** – Only members who have successfully completed department-approved training are authorized to carry and deploy the 40mm launcher.
- 1) Only department-approved kinetic energy munitions and launchers shall be carried and deployed. The Albany Police Department currently fields the Combined Tactical Systems 4557 40mm foam baton and the Combined Tactical 4556 Impact Round OC variant. The Albany Police Department currently fields an LMT single barrel 40mm Launcher for deploying the 40mm projectile.
  - 2) Any member who finds a 40mm launcher or 40mm projectile that is unsafe, not functioning properly, expired, or in need of repair, shall report the issue immediately to their supervisor. The launcher or 40mm round shall be taken out of service and a replacement issued. Replacements are located in the supervisor's locker within the ready room.
  - 3) When not in use, the projectile launcher shall be kept in its case, in an approved vehicle mount, or secured in a vehicle. Launchers are to be stored unloaded, with the safety on and the optic scope in the off position.
- b. **Warning** – Prior to the deployment of kinetic energy projectiles, the deploying officer should issue a verbal warning of the intended use, unless the verbal warning would endanger the safety of officers or is otherwise impractical due to circumstances. The purpose of the warning is to give the suspect the opportunity to comply and to notify other personnel on scene that the projectile is about to be deployed.
- c. **Target Areas** – Officers should adhere to department-approved training standards in the deployment of kinetic energy projectiles. The head and neck should not be intentionally targeted unless the officer reasonably believes the use of deadly force is justified.

**240.5.7: CONDUCTED ENERGY DEVICE**

Any display of a Taser conducted energy device (CED) is considered a reportable use of force pursuant to this policy. Display of Taser CED is defined as the pointing of an officer's Taser CED at a person as a means to gain compliance or in reasonable anticipation of use of physical force.

**a. Issuance and Deployment**

- 1) Only members who have successfully completed department-approved training may be issued and carry a CED. The Albany Police Department currently issues Taser CEDs and 25-foot air cartridges that are approved for use by sworn members. Taser CEDs are approved for non-sworn uniformed positions. Officers shall only use the CED and cartridges that have been issued by the Department. Uniformed officers who have been issued a CED shall wear the device in an approved holster on their person. Non-uniformed officers may secure the CED in the driver's compartment of their vehicle. Officers shall ensure that CED's, when not on their person, are secured in a manner which makes them inaccessible to others.



- 2) Members carrying the CED should perform a spark test on the unit prior to every shift. Any member who finds a CED or CED cartridge that is unsafe, not functioning properly, expired, or in need of repair, shall report the issue immediately to their supervisor. The CED or CED cartridge shall be taken out of service and a replacement issued. Replacements are located in the supervisor's locker within the ready room.
- 3) When carried while in uniform, officers shall carry the CED in a support-side holster on the side opposite the duty weapon, oriented for a support hand draw only (no cross-draw). Support-side external vest carry is authorized utilizing an approved holster.
  - A. All CED's shall be clearly marked to differentiate them from firearms and other devices.
  - B. Officers are encouraged to carry two CED cartridges when carrying the CED.
  - C. Officers should not hold both a firearm and a CED at the same time.
- 4) Department-owned CED's are not authorized for off-duty carry.
- 5) Community Service Officers are authorized to mount their CED holsters on their strong side.

**b. Use of Conducted Energy Device**

- 1) Verbal and Visual Warnings – A verbal warning of the intended use of the CED should precede its application unless it would endanger the safety of officers or is otherwise impractical. The purpose of the warning is to give the suspect the opportunity to comply and to warn other officers of the impending deployment. Verbal warnings and their effect or lack thereof shall be documented in a police report.
- 2) Arc Display – In addition to a verbal warning, an officer may display the arc of the CED to the suspect or point the laser sight of the CED toward the suspect in an effort to gain compliance. The laser sight should never be pointed at a person's eyes.
- 3) Application – The CED may be deployed as the officer deems reasonably necessary to subdue subjects who are violent or physically resisting arrest and/or when the subject has demonstrated, by words or action, the intent to be violent or physically resistive and reasonably appears to present the potential to harm officers, themselves, or others.
  - A. Mere flight from a pursuing officer, without other known circumstances or factors, is not an authorized use of the CED.
- 4) Special Deployment Considerations – The use of the CED should be generally avoided on certain individuals unless other options reasonably appear to be ineffective, and the officer believes the need to control the individual outweighs the risk of using the device. These types of people include but are not limited to:
  - A. Pregnant women;

- B. Elderly people or obvious juveniles;
  - C. Individuals of obviously low body mass;
  - D. Handcuffed or restrained persons;
  - E. Persons who are proximate to or who have been sprayed with flammable materials, including non-CED-compliant OC spray.
  - F. Persons whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles, etc.).
- 5) Targeting Considerations – Reasonable efforts shall be made to target lower center of mass and avoid the head, neck, chest, and groin. If a probe strikes a subject in these areas, officers shall monitor the condition of the subject until the subject is examined by medical personnel.
- 6) Multiple Applications – Officers should re-evaluate circumstances and compliance between each cycle of the CED. Multiple consecutive applications of the CED on an individual are not recommended and should be avoided unless the officer reasonably believes the need to control the subject and lack of other available means outweigh the potential for increased risk to the subject. Simultaneous application of multiple CED's to a subject should be avoided.
- 7) Dangerous Animals – CED's may be deployed against a dangerous animal as part of a plan to contain the animal if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.
- 8) Ineffectiveness – If the first application of the CED appears ineffective, officers should consider the following before attempting a subsequent application:
- A. Proper probe contact;
  - B. Ability and opportunity for subject to comply;
  - C. Potential effectiveness of other tactics.
- 9) Post-deployment Actions – After deployment of a CED, a supervisor shall be notified. Photographs of the affected area(s) should be taken as soon as practical and stored in a secured file. Documentation should include the serial number of the CED and a download of the Taser CED deployment information. The Taser CED download should be complete as soon as practical and no longer than one week from the date of the incident. If CED probes penetrated skin, then evidence should be marked as biohazard.

#### **240.6: HANDCUFFING AND RESTRAINTS**

The Albany Police Department authorizes the use of restraint devices during detentions and arrests in accordance with this policy and department training. Restraint devices shall not be used to punish, display authority, or as a show of force.

**240.6.1: USE OF RESTRAINTS**

- a. **Authorization** – Only members who have successfully completed department-approved training on the use of restraint devices described in this policy are authorized to use those devices.
- b. **Restraint of Detainees** – Unless arrested, the use of restraints on persons detained for investigation should only occur for as long as is reasonably necessary to assure the safety of officers and others.
- c. **Factors to Consider** – When deciding to use any restraint device, officers should balance officer safety needs with factors including, but not limited to:
  - 1) Circumstance leading to arrest/detention;
  - 2) Demeanor and behavior of arrested/detained subject;
  - 3) Age and known medical conditions of the subject, including pregnancy;
    - A. Juveniles under 14 years of age should not be restrained unless they are suspected of a dangerous felony or the officer has reasonable suspicion the juvenile may resist, attempt escape, injure themselves, injure the officer, or damage property.
    - B. Pregnant individuals should be restrained in the least restrictive manner that is effective for officer safety. No person in labor shall be handcuffed unless extraordinary circumstances exist and only with the express consent of a supervisor.
  - 4) Hearing or speech disability;
    - A. Consideration should be given to handcuffing these persons in the front to allow them to communicate via sign language or notes.
  - 5) Other physical disabilities or limitations.
- d. **Application of Handcuffs** – Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.
  - 1) Handcuffs should generally be applied with hands behind the subject's back.
  - 2) Handcuffs should be double locked to prevent unintentional tightening.
  - 3) Multiple pairs of handcuffs may be used to accommodate a person's size or physical limitation.
  - 4) Handcuffs should be removed as soon as it is practical or after the person has been searched and is safely confined in a detention facility.
- e. **Auxiliary Restraint Devices** – Auxiliary restraint devices include transport belts, waist or belly chains, leg irons, and similar devices. Only department-authorized auxiliary restraint devices shall be used. Any person in auxiliary restraints should be monitored as reasonably necessary.

f. **Leg Restraint Devices** – Leg restraints may be used to restrain a violent or potentially violent person when it is reasonable to do so during the course of a detention, arrest, or transport. Only department-authorized leg restraints shall be used.

1) Factors to consider include:

- A. Potential for injury to officers or others;
- B. Protection of subject from their own actions (kicking, escape, etc).
- C. Prevention of damage to property (e.g., patrol car windows)

2) Application of Leg Restraints

- A. Supervisor notification – When practical, officers should notify a supervisor of the intent to use leg restraints before they are used. In all cases, a supervisor shall be notified as soon as practical after the application of the restraints.
- B. Duration of restraint – Once applied, leg restraints should remain in place until the subject is transported to the jail or other facility, or until the person no longer reasonably appears to pose a threat. The restrained person should be continuously monitored for changes to their condition and signs of medical emergency.
- C. Transportation – Persons in leg restraints should be transported in a seated or upright position and secured with a seatbelt. Restrained persons shall not be placed in a prone position as it may inhibit the subject's ability to breathe. When a restrained person is transported by ambulance, they should be accompanied by an officer when requested by medical personnel. The transporting officer should brief the medical personnel of the circumstances leading to the detention and any potential medical or safety risks for the subject or medical personnel.

#### **240.6.2: DOCUMENTATION OF RESTRAINT**

- a. **Detention** – If a person is restrained and released without arrest, the officer shall document the details of the detention and articulate the need for handcuffs or other restraints.
- b. **Arrest** – If a person is arrested, the use of restraints other than handcuffs shall be documented in the police report. If applicable, the report should include:
  - 1) The approximate amount of time for which the suspect was restrained;
  - 2) The position in which and manner by which the suspect was transported;
  - 3) Observations of the subject's behavior and any signs of psychological problems;
  - 4) Any known or suspected drug use or medical problems.

**240.7: MEDICAL CONSIDERATION**

- a. **Medical Treatment** – Medical treatment (which may include treatment by paramedics, hospital staff, or jail medical staff) shall be obtained for any person who meets any of the following criteria:
  - 1) Rendered unconscious;
  - 2) Sustained visible injury;
  - 3) Expresses complaint of injury or continuing pain;
  - 4) Restrained and suffering a respiratory or cardiac compromise.
- b. **Monitoring** – Any individual showing signs of physical distress after an encounter should be continuously monitored until they can be assessed by medical personnel.
- c. **Notification of Medical Personnel** – Notification of medical personnel for a subject complaining of injury or possibly suffering from a medical emergency should occur as soon as practical, including requests for medical personnel to stage when a use of force is reasonably anticipated. The on-scene supervisor or, when not available, the primary handling officer shall ensure that medical personnel are informed that the person was subjected to physical force. The notification shall include a description of force used and any other factors the officer reasonably believes would be potential medical or safety risks to the subject or medical staff.
- d. **Refusal of Medical Aid** – Any refusal of medical aid by a subject shall be documented in a police report and, whenever practical, should be witnessed by another officer and/or medical personnel and recorded.

**240.8: USE OF FORCE REPORTING**

Any use of force, as described in this policy, by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident.

- a. A use of force form shall be completed by each officer per use of force incident.
- b. Details of the use of force, probable cause for arrest and justification for the use of force should be articulated in the narrative of the report.
- b. The officer should articulate the factors perceived and why they believed the use of force was reasonable under the circumstances.
- c. If the officer is required to provide additional information regarding the use of force incident after the initial report has been submitted, the officer shall complete the [Use of Force Officer Narrative: Form A44](#) and email it to their supervisor for review.

**240.8.1 DEADLY USE OF FORCE REPORTING**

The Albany Police Department shall collect at least the following information relating to incidents in which a police officer's use of deadly physical force resulted in the death of a person ([ORS 181A.790\(6\)](#)):

- a. The name, gender, race, ethnicity, and age of the decedent.
- b. The date, time, and location of the incident.
- c. A brief description of the circumstances surrounding the incident.

The Administrative Lieutenant shall promptly submit the information collected to the Department of Justice using the [SB 111: Officer-Involved Use of Deadly Force Resulting in Death Reporting Form](#). The Administrative Lieutenant shall compile and periodically publish information submitted using the SB 111 form.

**240.9: SUPERVISOR NOTIFICATION**

Supervisory notification shall be made as soon as practical and before leaving "on-duty" status following the application of force in any of the following circumstances:

- a. The application caused a visible injury;
- b. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort;
- c. The individual subjected to the force complained of injury or continuing pain;
- d. The individual indicates intent to pursue litigation;
- e. Any application of the CED or control device;
- f. Any application of a restraint device other than handcuffs, shackles or belly chains;
- g. The individual subjected to the force was rendered unconscious;
- h. An individual was struck or kicked;
- i. An individual alleges any of the above has occurred.

**240.10: SUPERVISOR RESPONSIBILITIES**

- a. The on-duty supervisor should respond to an incident in which there has been a reported application of force, the supervisor is expected to:
  - 1) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
  - 2) Ensure that any injured parties are examined and treated.

- 3) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
  - A. The content of the interview should not be summarized or included in any related criminal charges;
  - B. The fact that a recorded interview was conducted should be documented in a report;
  - C. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- 4) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- 5) Identify any witnesses not already included in related reports.
- 6) Review and approve all related reports, videos, and relevant information.
- 7) Determine if there is any indication that the subject may pursue civil litigation.
- 8) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

#### **240.11: ADMINISTRATIVE REVIEW**

- a. An administrative review of each use of force report will be conducted by each member of the involved officer's chain of command to include:
  - 1) Sergeant;
  - 2) Lieutenant;
  - 3) Captain; and
  - 4) Training Coordinator (Firearms and/or Survival Skills).
- b. This review will contribute to the creation of safer strategies for employees and citizens. The use of force review will include:
  - 1) Policy adherence;
  - 2) Training needs;
  - 3) Equipment status;
  - 4) Disciplinary issues.

- c. If training or disciplinary action are recommended by the Captain, the use of force review will be sent to either the Professional Standards Unit or the Training Unit. Once the recommended action is complete, the action will be documented, and the reviewed will be complete.

#### **240.11.1: ANNUAL REPORT**

The Operations Captain shall conduct a statistical review of department-wide use of force trends on an annual basis and coordinate with the Survival Skills Coordinator as necessary to ensure emphasis on training topics as a result of the analysis. All cases of assaults on Albany Police Department officers shall be reviewed to determine trends or patterns, with recommendations to the Survival Skills Coordinator to enhance officer safety, recommend policy revision, and address training issues.

#### **240.12: DEADLY FORCE REVIEW**

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review.

#### **240.13: USE OF FORCE REVIEW BOARD**

- a. The Use of Force Review Board will be convened when the use of force by a member results in serious injury or death to another, or any other use of force incident as deemed necessary by the Chief of Police.
- b. The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training, recreational use, and dispatching of injured animals.
- c. The Division Captain or supervisor of the involved employee will notify the Support Services Division Captain of any incidents requiring board review. The involved employee's Division Captain or supervisor will also ensure that all relevant reports, documents, and materials are available for consideration and review by the board.
- d. The Support Division Captain will convene the Use of Force Review Board as necessary. The Support Services Captain should select five board members from the following categories, as appropriate:
- Representatives of each division
  - Commanding officer in the involved member's chain of command
  - Administrative Lieutenant
  - Non-administrative supervisor
  - A peer officer
  - A sworn peace officer from an outside law enforcement agency



- Department instructor for the type of weapon, device or technique used
- e. The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

#### **240.13.1: USE OF FORCE REVIEW BOARD RESPONSIBILITIES**

- a. The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.
- b. The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.
- c. The board does not have the authority to recommend discipline.
- d. The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.
- e. The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures, and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.
- f. Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the [Personnel Complaints: Policy 821](#), the current collective bargaining agreement and any applicable state or federal law.
- g. The board shall make one of the following recommended findings:
- 1) The employee's actions were within department policy and procedure.
  - 2) The employee's actions were in violation of department policy and procedure.
- h. A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.
- i. The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded

to the involved employee's Division Captain for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

- j. At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.