

Use of Force

300.1 PURPOSE AND SCOPE

This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide officers of this department with 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, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters and when warranted, may use force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to officers overcoming resistance while engaged in the performance of their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

300.1.2 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force. Such officers should also promptly report these observations to a supervisor.

300.2 POLICY

It is the policy of this department that officers shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. Reasonableness of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation.

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

Tualatin Police Department

Policy Manual

Use of Force

300.2.1 USE OF FORCE TO EFFECT AN ARREST OR PREVENT AN ESCAPE

Pursuant to Oregon Revised Statutes 161.235, and, except as provided in Oregon Revised Statutes 161.239, a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:

- To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful; or
- For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

It is the policy of this department that use of force by its members be:

- (a) Justified under applicable state law;
- (b) Consistent with the specific policies which follow;
- (c) Professionally accomplished according to approved training and with approved equipment;
- (d) In all cases employed to accomplish a legitimate tactical objective;
- (e) Limited to that degree and duration which the officer reasonably believes necessary to accomplish that objective;
- (f) Applied by the officer and reviewed by the department based upon those facts which are reasonably believed by the officer at the time, applying legal requirements, department policy, and approved training to those facts. Facts later discovered, but unknown to the officer at the time, can neither justify nor condemn an officer's decision to use force.

An authorized official of a jail, prison, or correctional facility may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline, or as is authorized by law (Oregon Revised Statutes 161.205(2)).

300.2.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether or not to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- (a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- (b) Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
- (c) Influence of drugs/alcohol (mental capacity).
- (d) Proximity of weapons.
- (e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
- (g) Seriousness of the suspected offense or reason for contact with the individual.
- (h) Training and experience of the officer.
- (i) Potential for injury to citizens, officers and suspects.

Tualatin Police Department

Policy Manual

Use of Force

- (j) Risk of escape.
- (k) Other exigent circumstances.

It is recognized that officers are expected to make split-second decisions and that the amount of an officer's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

It is recognized however, that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the standard tools, weapons or methods provided by the Department. Officers may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.

300.2.3 NON-DEADLY FORCE APPLICATIONS

Any application of force that is not reasonably anticipated and intended under the circumstances to create a substantial likelihood of death or serious physical injury shall be considered non-deadly force. Each officer is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of officers and the public. Non-deadly force applications may include but are not limited to leg restraints, control devices and TASERS described in Policy Manual §§ 306, 308 and 309 respectively.

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

300.2.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Officers may only apply those pain compliance techniques for which the officer has received departmentally approved training and only when the officer reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Officers utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to:

- (a) The potential for injury to the officer(s) or others if the technique is not used
 - (b) The potential risk of serious injury to the individual being controlled
 - (c) The degree to which the pain compliance technique may be controlled in application according to the level of resistance
 - (d) The nature of the offense involved
 - (e) The level of resistance of the individual(s) involved
 - (f) The need for prompt resolution of the situation
 - (g) If time permits (e.g., passive demonstrators), other reasonable alternatives
-

Tualatin Police Department

Policy Manual

Use of Force

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3 DEADLY FORCE APPLICATIONS

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the officer reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or serious injury under the circumstances.

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect himself/herself or others from what he/she reasonably believe would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing suspect when the officer has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction, or threatened infliction of serious bodily injury or death, and, the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, and when feasible, a verbal warning should precede the use of deadly force.

300.4 REPORTING THE USE OF FORCE

Any use of physical force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons such as chemical agents may require the completion of additional report forms as specified in departmental policy and/or law.

300.4.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practical following the application of any physical force that is capable of causing physical injury or would appear to have caused physical injury.

300.4.2 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE

Prior to booking or release, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

If any individual refuses medical attention, such a refusal shall be fully documented in related reports and a supervisor should be notified. Whenever practicable, the refusal should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or interview with the individual, any refusal should be included, if possible.

Tualatin Police Department

Policy Manual

Use of Force

300.5 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officer(s).
- (b) Ensure that any injured parties are examined and treated.
- (c) Separately interview the subject(s) upon whom force was applied.
- (d) Ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.

In the event that the supervisor believes that the incident may give rise to potential civil litigation, a separate threshold event form should be completed and routed to appropriate channels.

Should the supervisor determine that any application of force was not within policy, a separate internal administrative investigation shall be initiated.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.6 ANNUAL REVIEW

Each January the Patrol Division Commander will ensure that an annual review of all Use of Force Reports for the previous calendar year is conducted. The analysis will focus on the effectiveness and trends in the use of force that might suggest training or equipment needs, or policy modification. Specific detail including items such as officer names, case numbers and location of occurrence are not needed for this purpose and therefore will not be part of this process.