



# City of Eugene POLICE COMMISSION

The Police Commission recommends to the City Council, City Manager, police department, and the people, the resources, preferred policing alternatives, policies, and citizen responsibilities needed to achieve a safe community. We strive to create a climate of mutual respect and partnership between the community and the police department that helps to achieve safety, justice and freedom for all people in Eugene.

**Police Commissioners:** Dallas Boggs, Chair; Bonnie Dominguez, Vice-Chair; Dr. Silky Booker, Jensina Hawkins, Vi Huynh, Silverio Mogart, Sean Shivers, Alan Zelenka, Jennifer Yeh, Scott Lemons, Ian Winbrock, and Alan Leiman

## Police Commission Meeting

Via Webinar: <https://eugene-or-gov.zoom.us/j/86181670379>

Webinar ID: 861 8167 0379

Password: PolComm1

Thursday, December 08, 2022

5:30 – 8:00 p.m.

Or dial by phone: (Toll Free) 877 853 5257, or (Toll Free) 888 475 4499, or (Toll Free) 833 548 0276

<u>Item</u>	<u>Starting – Ending</u>	<u>Minutes</u>
Public Comment	5:30 – 5:32 p.m.	2 min
Welcome Dr. Booker and Jensina Hawkins	5:32 – 5:35 p.m.	3 min
Review Agenda	5:35 – 5:38 p.m.	3 min
Previous Meeting Recap	5:38 – 5:41 p.m.	3 min
Liaison Reports	5:41 – 5:46 p.m.	5 min
Commissioners Comments	5:46 – 6:01 p.m.	15 min
Chief’s Report	6:01 – 6:16 p.m.	15 min
Diversity, Equity, Inclusion and Belonging with Da’Mon Merkerson	6:16 – 7:16 p.m.	60 min
Review Policy 805 Chemical Incapacitants	7:16 – 7:31 p.m.	15 min
Review Policy 807 Impact Weapons	7:31 – 7:46 p.m.	15 min
Closing Comments	7:46 – 8:00 p.m.	14 min

### Upcoming Meeting Dates and Agenda Items\*

**January 12, 2023**—Sponsors Inc. presentation, TBD

**February 9, 2023**—Review House Bill 2930, TBD

**March 9, 2023**—TBD

*\*Agenda items subject to change*

# EUGENE POLICE COMMISSION

## AGENDA ITEM SUMMARY



### Diversity, Equity, Inclusion and Belonging Presentation with Da'Mon Merkerson

Meeting Date: December 8, 2022  
Department: Eugene Police Department  
[www.eugene-or.gov/policecommission](http://www.eugene-or.gov/policecommission)

Staff Contact: Holly Mathews  
Contact Telephone Number: 541-682-5852  
[hmathews@eugene-or.gov](mailto:hmathews@eugene-or.gov)

#### **ISSUE STATEMENT**

During the May 15, 2021, Police Commission work retreat, the topic of diversity, equity and inclusion (DEI) was identified as an area of focus for the Police Commission as it relates to community issues and priorities in conjunction with the work that Eugene Police Department performs.

The Police Commission identified diversity, equity and inclusion as number five on their FY2022-23 Work Plan priorities and stipulated that DEI informational sessions occur on a quarterly basis for two years.

#### **BACKGROUND**

Mr. Da'Mon Merkerson (first name is pronounced Day-Moan) is the Senior Associate Athletic Director for Diversity, Equity, Inclusion & Belonging (DEIB) with the University of Oregon Athletics department.

Mr. Merkerson comes to Eugene with his wife, Katherine, after working most recently as Associate AD for Academic & Student Success at UMass-Amherst, where he also served as the department's Diversity & Inclusion Designee. He previously worked as an administrator at Boston College and Temple, after wrapping up a professional football career following four seasons playing at Syracuse.

Mr. Merkerson leads DEIB initiatives for Oregon athletics while also continuing to work toward his Ph.D. in higher and postsecondary education.

#### **ATTACHMENTS:**

- A. Link to Da'Mon Merkerson's professional bio can be found online at:  
<https://goducks.com/news/2022/9/6/general-merkerson-joins-athletics-senior-staff.aspx>

# EUGENE POLICE COMMISSION

## AGENDA ITEM SUMMARY



### Chemical Incapacitants Policy (805) Review

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Meeting Date: December 8, 2022  
Department: Eugene Police Department  
[www.eugene-or.gov/policecommission](http://www.eugene-or.gov/policecommission)

Staff Contact: Sgt. Julie Smith  
Contact Telephone Number: 541-682-8427  
[JASmith@eugene-or.gov](mailto:JASmith@eugene-or.gov)

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#### **ISSUE STATEMENT**

This agenda item is to conduct a review of the Chemical Incapacitants Policy 805. This policy was formally referred to as Chemical Agents and is now referred to as Chemical Incapacitants, to better align with verbiage from House Bill 4008.

#### **BACKGROUND**

Policy (POM) 808 is being separated out to address Impact Weapons and Chemical Incapacitants as standalone policies.

Per recommendation from the Civilian Review Board in 2021, Policy 808 is being revised and Chemical Incapacitants and Impact Weapons are becoming policies on their own, rather than housed together with Handcuffing and Control Holds.

Furthermore, to comply with House Bill 4008 and Oregon Accreditation Alliance standards, Eugene Police has taken steps to clarify the use of Chemical Agents for crowd control purposes.

The term "tear gas" was originally housed on the last page of POM 808 - Handcuffing/ Control Holds and Impact Weapons. "Tear gas" is an old term which is no longer used by the Eugene Police Department. Moving forward, the term Chemical Incapacitants will be used to describe any munitions or crowd control tools. The Eugene Police Department does not maintain an inventory of, or use, Tear Gas.

POM 808 will now be three separate policies:

- POM 808 – Handcuff and Control Holds
- POM 805 – Chemical Incapacitants
- POM 807 – Impact Weapons

Policy 808 was last reviewed in 2014.

#### **ATTACHMENTS:**

- A. Policy 805: Chemical Incapacitants
- B. Oregon House Bill 4008

**POLICY  
805**

**EFFECTIVE  
DRAFT: 12-  
01-22**

**Eugene  
Police Department**



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## **Chemical Incapacitants**

### **805.1 PURPOSE AND SCOPE**

This policy provides guidelines for the use and maintenance of Chemical Incapacitants. The use of chemical incapacitants, kinetic impact projectiles, and sound devices will be used in accordance with *ORS 181A.708* and *Policy 800 – Use of Force*.

### **805.2 DEFINITIONS**

*Crowd management* – A public security practice in which crowds are managed to prevent the outbreak of crowd crushes, affrays, fights, or riots, or in which an assembly, protest or demonstration is dispersed.

*Kinetic impact projectiles* -- All non-lethal, less-lethal or semi-lethal projectiles, including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds and pellet rounds. (See *Policy 807 – Impact Weapons*)

*Pre-cursors* – Any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system.

*Toxic chemical* – Any chemical through its chemical action on biological processes can cause death, temporary pain, irritation, disruption of vital processes, incapacitation, temporary disability or permanent harm to humans or animals.

*Tear Gas* -- Oleoresin capsicum or orthochlorobenzalmalonitrile, or other similar chemicals meant to accomplish the same effect (Also known as CN). Tear Gas or CN is not maintained in EPD inventory or deployed for the purpose of producing temporary physical discomfort or permanent injury.

*Tear Gas Weapon* -- Any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of tear gas or oleoresin capsicum.

*Chemical Incapacitant Munition* -- Any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of CS (*Ortho-Chlorobenzalmalonitrile*) or *oleoresin capsicum*.

*OC (Oleoresin Capsicum)* -- The oil and resin from the common pepper plant. Chemical classification is an inflammatory. Primary effects of OC are involuntary closure of the eyes and burning sensation to exposed skin and the upper respiratory tract. In gas form, the primary effect is burning sensation to the upper respiratory tract and in gas form it does not normally affect vision. (see *Policy 803 - Oleoresin Capsicum Aerosol.*)

*CS (Ortho-Chlorobenzalmalononitrile)* – A chemical compound classified as an irritant. Effects are a pricking, peppery, burning sensation to the skin (especially moist areas) such as the eyes, mouth, throat, and nasal passages. Also causes lacrimation and rhinorrhea. Considered to be safer and more effective than CN.

### **805.3 RESTRICTIONS ON USE OF TEAR GAS**

The Eugene Police Department does not possess, maintain in inventory, or deploy “Tear Gas” or any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury.

The term “Tear Gas” is only referenced in policy per the requirement of Oregon Accreditation Alliance Standards and for compliance with *ORS 181A.708*.

### **805.4 RESTRICTION ON THE USE OF KINETIC IMPACT PROJECTILE FOR CROWD MANAGEMENT**

The Eugene Police may not use a kinetic impact projectile for crowd management or discharge a kinetic impact projectile in a manner that intentionally targets the head of a person, except against an individual engaged in conduct otherwise justifying the use of deadly physical force by a peace officer *ORS 181A.708 (4)(a)*, *ORS 161.242*.

### **805.5 USE OF CHEMICAL MUNITIONS BY EPD PERSONNEL**

- a. The use of Chemical Incapacitants for crowd management may be used if:
  - 1. The circumstances constitute a riot, as described in *ORS 166.015*.
  - 2. Only a sworn supervisor may authorize the delivery and use of chemical incapacitants after evaluating all conditions known at the time and determining such force is objectively reasonable and all other alternatives to force have been attempted and failed to stop the riotous behavior.
  - 3. Officers shall announce the intent to use chemical incapacitants multiple times and provide sufficient time for individuals to evacuate the area before the deployment of chemical incapacitants.
  - 4. When it is safe and possible to do so, officers shall minimize the incidental impact of the agency’s use of handheld chemical incapacitants, munitions, and

kinetic impact projectiles on bystanders, medical personnel, journalists and other unintended targets.

5. When handheld chemical incapacitants, munitions, or kinetic impact projectiles are used in a crowd, officers shall make efforts to notify emergency rooms in the vicinity of the type of handheld chemical incapacitants, munitions or kinetic impact projectiles used.
6. When using handheld chemical incapacitants, munitions, kinetic impact projectiles or electronically amplified noise-producing equipment, and when it is possible to do so safely, officers:
  - Shall attempt to take injured persons to safety or allow injured persons to seek medical help.
  - May not prevent emergency medical services from reaching injured persons.
  - Shall take reasonable action to accommodate disabilities when issuing or enforcing orders to disperse.
- b. The use of chemical incapacitants in response to a barricaded subject is authorized if the circumstances dictate the use of force in accordance with *Policy 800 – Use of Force*.
- c. Only officers properly trained in the use of chemical munitions will be authorized to deploy chemical incapacitants.

#### **805.5.1 DECONTAMINATION PROTOCOLS**

Decontamination protocols and follow up care should be utilized immediately (or when safe to do so) following the deployment of Chemical Incapacitants.

- a. Within several seconds of being exposed to chemical incapacitants, a person may display symptoms of temporary blindness, difficulty in breathing, burning sensation in the throat, nausea, lung pain, and/or impaired thought processes.
- b. Officers should be alert to any indications that the individual needs medical care (e.g., breathing difficulties, gagging, profuse sweating and loss of consciousness.) Upon observing these or other medical problems, or if the person requests medical assistance, emergency medical aid should be immediately summoned.
- c. Officers must be aware of the possibility of limited effectiveness of chemical incapacitants and be prepared to accomplish custody by other means. Additionally, all arrestees shall be handcuffed as soon as safely possible.
- d. Air will normally begin reducing the effects of chemical incapacitants within 15 minutes of exposure (although the length of time will vary with different individuals.) However, once the person has been restrained, they should be assisted to the extent possible by rinsing the exposed area with water as soon as practicable. Officers should not apply, or allow others to apply, oil-based

substances (e.g., Vaseline, cold cream) to the exposed area unless authorized by a physician or paramedic.

- e. Officers should continue to monitor arrestees for indications of medical problems. They should not be left alone while in police custody.
- f. Assurance should be provided to persons that the effects are temporary.
- g. As able, officers should offer assistance to any individuals accidentally exposed and who feel the effects of the munitions. All such incidents must be reported to the officer's immediate supervisor as soon as possible and detailed in an incident report.
- h. In situations where multiple persons are exposed, officers should ensure that reasonable steps are taken to contact those exposed and assist them in any needed treatment to the extent that the circumstances and situation allow.
- i. When lodging a person at a correctional facility (e.g., juvenile detention facility, jail), their personnel should be notified of the exposure.

#### **805.5.2 USE OF ELECTRONICALLY AMPLIFIED NOISE-PRODUCING EQUIPMENT**

A law enforcement agency may not use electronically amplified noise-producing equipment for crowd management except for announcements or to facilitate movement of an emergency vehicle as allowed or required by ORS 820.300 or any other provision of law. Whenever possible, announcements shall be provided for purposes of crowd management both audibly and visually. *ORS 181A.708.*

#### **805.5.3 FIRE PREVENTION PLAN**

When chemical munitions are being deployed, a fire prevention plan should be in place. Fire personnel should be alerted or summoned to stage near the scene to assist in providing medical aid and evacuation, if needed.

#### **805.5.4 CLEANUP OF DEBRIS**

Cleanup of visible debris caused by the use handheld chemical incapacitants, and kinetic impact projectiles should be accomplished within a reasonable time of the use per *ORS 181A.708.*

### **805.6 TRAINING**

The Office of Professional Standards Lieutenant, in conjunction with the Sergeants of Defensive Tactics, Training, and the Rangemaster will ensure the annual training on the use of chemical incapacitant munitions is offered to officers and supervisors.

**Chris Skinner**  
**Chief of Police**

DRAFT



# Enrolled House Bill 4008

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Representative Janelle Bynum)

CHAPTER .....

AN ACT

Relating to public safety; amending ORS 181A.708, 181A.710 and 243.812 and section 10, chapter 541, Oregon Laws 2021; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 243.812 is amended to read:

243.812. (1) The Commission on Statewide Law Enforcement Standards of Conduct and Discipline is established for the purpose of adopting rules that prescribe uniform:

- (a) Standards of conduct, including guidelines and procedures, to which law enforcement officers shall adhere; and
- (b) Disciplinary standards and procedures, including a range of disciplinary actions that may include consideration of aggravating or mitigating circumstances, by which a law enforcement agency, a civilian or community oversight board, agency or review body, and an arbitrator who serves in an arbitration proceeding described under ORS 243.706 (3) shall make determinations regarding alleged misconduct by a law enforcement officer, and shall make recommendations for and impose disciplinary action in response to such determinations.

(2) The commission consists of 15 members as follows:

- (a) The Director of the Department of Public Safety Standards and Training or a designee from the department.
- (b) The Attorney General or a designee from the Attorney General’s office.
- (c) The President of the Senate shall appoint one nonvoting member, acting in an advisory capacity only, from among members of the Senate.
- (d) The Speaker of the House of Representatives shall appoint one nonvoting member, acting in an advisory capacity only, from among members of the House of Representatives.
- (e) The Director of the Department of Public Safety Standards and Training and the Attorney General shall jointly appoint 11 members of the commission consistent with the following:
  - (A) Two members who are chief law enforcement officers.
  - (B) Two members who represent labor organizations who represent law enforcement officers.
  - (C) Two members who represent historically marginalized groups or community-based organizations that represent communities impacted by policing.
  - (D) One member who represents a federally recognized Indian tribe or association of tribes within this state.
  - (E) Two members who are representatives of local government to represent the interests of cities and counties.

(F) One member who represents public defender organizations established under ORS chapter 151 or the Oregon Criminal Defense Lawyers Association.

(G) One member who represents the interests of prosecutors in this state.

(3) At a minimum, the uniform standards described under subsection (1) of this section must address standards of conduct and discipline regarding:

(a) Unjustified or excessive use of physical or deadly force;

(b) Sexual harassment;

(c) Sexual assault;

(d) Assault;

(e) Conduct that is motivated by or based on a real or perceived factor of an individual's race, ethnicity, national origin, sex, gender identity, sexual orientation, religion or homelessness;

(f) Moral character; and

(g) The use of drugs or alcohol while on duty.

(4) On or before October 1, 2022, the commission shall adopt and publish rules pursuant to ORS chapter 183 to establish the uniform standards described under subsection (1) of this section.

(5) The commission shall review the standards described under subsection (1) of this section at least once every two years.

(6) The meetings of the commission shall be open to the public in accordance with state law. Records of the commission shall be open and available to the public in accordance with state law.

(7) The commission shall establish and implement an open hearing process for public input and deliberation before the commission adopts rules that establish the standards described under subsection (1) of this section, including:

(a) Public notice;

(b) Public outreach to solicit broad public participation; and

(c) Public hearings to receive public comment.

(8) A majority of the members of the commission constitutes a quorum for the transaction of business.

(9) Official action by the commission requires the approval of a majority of the commission.

(10) The term of a member appointed under subsection (2)(e) of this section shall be two years. If there is a vacancy on the commission for any reason, the Director of the Department of Public Safety Standards and Training and the Attorney General shall appoint a person to the unexpired term.

(11) The members of the commission shall elect one person from the Department of Public Safety Standards and Training and one person from the Department of Justice from among the members of the commission to serve as cochairpersons of the commission who shall preside over meetings and execute the duties determined by the commission to be necessary.

**(12) The commission may hire an executive director and support staff, and may enter into an interagency or intergovernmental agreement to have another state agency or governmental agency provide support staff.**

~~[(12)]~~ **(13)** The commission may adopt rules necessary for the operation of the commission.

~~[(13)]~~ **(14)** A member of the commission who is not a member of the Legislative Assembly is entitled to compensation and expenses as provided in ORS 292.495.

~~[(14)(a)]~~ **(15)(a)** The commission shall prepare and submit a report in the manner provided by ORS 192.245 to the House Committee on Judiciary or an interim committee of the Legislative Assembly related to the judiciary no later than September 1, 2022, and September 1 every year thereafter.

(b) The initial report must describe the development and adoption of the uniform standards described under subsection (1) of this section, including the methodology used to apprise each law enforcement agency in this state and each civilian or community oversight board, agency or review body, of the standards. The commission shall include in reports submitted after September 1, 2022, information regarding the progress of each law enforcement agency and civilian or community

oversight board, agency or review body, towards implementing and applying the uniform standards and the commission's recommendations on updates to the standards, as are considered necessary.

[(15)] (16) As used in this section:

(a) "Assault" has the meaning given that term in ORS 163.115.

(b) "Civilian or community oversight board, agency or review body" means a board, an agency or a body:

(A) Designated by a municipality or a law enforcement agency in performing duties related to investigating allegations of officer misconduct or reviewing police policies and practices; or

(B) Created to oversee disciplinary matters concerning law enforcement officers pursuant to a city charter or ordinance for which a measure that included the question of whether to establish the board, agency or body was referred to and approved by the people of the city at an election held on or after July 1, 2020.

(c) "Law enforcement agency" and "law enforcement officer" have the meanings given those terms in ORS 131.930.

(d) "Sexual assault" has the meaning given that term in ORS 243.317.

**SECTION 2.** Section 10, chapter 541, Oregon Laws 2021, is amended to read:

**Sec. 10.** Section 3, **chapter 541, Oregon Laws 2021**, [of this 2021 Act] and the amendments to ORS 243.650 and 243.706 by sections 5 to 7, **chapter 541, Oregon Laws 2021**, [of this 2021 Act] apply to collective bargaining agreements entered into or renewed on or after the operative date specified in section 11, **chapter 541, Oregon Laws 2021** [10 of this 2021 Act].

**SECTION 3.** ORS 181A.708 is amended to read:

181A.708. (1) As used in this section:

(a) "**Crowd management**" means a public security practice in which crowds are managed to prevent the outbreak of crowd crushes, affrays, fights or riots, or in which an assembly, protest or demonstration is dispersed.

[(a)] (b)(A) "**Handheld chemical incapacitant**" means the following, together or separately:

[(A)] *Toxic chemicals and their precursors, except where intended for purposes not prohibited under this section, as long as the types and quantities are consistent with such purposes;*]

[(B)] (i) **Handheld** munitions and devices specifically designed to cause temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm through the toxic properties of toxic chemicals, **or their precursors**, that would be released as a result of the employment of the **handheld** munitions and devices; and

[(C)] (ii) Any equipment specifically designed for use directly in connection with the employment of **handheld** munitions and devices as described in [subparagraph (B) of this paragraph] **sub-subparagraph (i) of this subparagraph**.

(B) "**Handheld chemical incapacitant**" does not include tear gas.

[(b)] (c) "Key component of a binary or multicomponent chemical system" means the precursor that plays the most important role in determining the toxic properties of the final product and that reacts rapidly with other chemicals in a binary or multicomponent system.

[(c)] (d) "Kinetic impact projectile" means all nonlethal, less-lethal or semilethal projectiles, including but not limited to rubber and plastic bullets, beanbag rounds, sponge rounds and pellet rounds.

[(d)] (e) "Law enforcement agency" means the Department of State Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the State of Oregon and a university, that maintains a law enforcement unit as defined in ORS 181A.355 (12)(a)(A).

[(e)] (f) "Precursor" means any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system.

(g) "**Tear gas**" means oleoresin capsicum or orthochlorobenzalmalononitrile, or other similar chemicals meant to accomplish the same effect, administered by any shell, cartridge

**or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of the chemicals.**

[(f)] (h) "Toxic chemical" means any chemical that through its chemical action on biological processes can cause death, temporary pain, temporary irritation, temporary disruption of vital processes, temporary incapacitation, temporary disability or permanent harm to humans or animals.

[(2)(a)] A law enforcement agency may not use a chemical incapacitant for crowd control, except when the following requirements are satisfied:]

[(A)] *The circumstances constitute a riot, as described in ORS 166.015; and]*

[(B)] *The officer using the chemical incapacitant reasonably believes, when and to the extent the chemical incapacitant is used, that the use of the chemical incapacitant is necessary to terminate and prevent furtherance of the riotous behavior.]*

[(b)] *A law enforcement agency may not use a kinetic impact projectile for crowd control or discharge a kinetic impact projectile in a manner that intentionally targets the head of a person, except against an individual engaged in conduct otherwise justifying the use of deadly physical force by a peace officer.]*

**(2) A law enforcement agency may not use a handheld chemical incapacitant for crowd management.**

**(3) A law enforcement agency may not use tear gas for crowd management except when:**

**(a) The use is objectively reasonable by law enforcement to:**

**(A) Defend against a threat to life or serious bodily injury to any individual, including any peace officer; or**

**(B) Bring an objectively dangerous and unlawful situation safely and effectively under control;**

**(b) A commanding officer authorizes the use of tear gas;**

**(c) De-escalation techniques or other alternatives to force have been attempted, when reasonable, and failed; and**

**(d) The law enforcement agency has done the following, in the following order:**

**(A) Announced the agency's intent to use tear gas;**

**(B) Allowed sufficient time for individuals to evacuate the area; and**

**(C) Announced a second time, immediately before using the tear gas, the agency's intent to use tear gas.**

**(4)(a) A law enforcement agency may not use a kinetic impact projectile for crowd management.**

**(b) A law enforcement agency may not discharge a kinetic impact projectile in a manner that intentionally targets the head of a person, except against an individual engaged in conduct otherwise justifying the use of deadly physical force by a peace officer under ORS 161.242.**

**(5) This section does not prohibit a law enforcement agency or a peace officer from using a handheld chemical incapacitant or kinetic impact projectile against an individual engaged in conduct otherwise justifying the use of physical force under ORS 161.195 to 161.275.**

**(6) A law enforcement agency, when it is safe and possible to do so, shall minimize the incidental impact of the agency's use of handheld chemical incapacitants, tear gas and kinetic impact projectiles on bystanders, medical personnel, journalists and other unintended targets.**

**(7) When handheld chemical incapacitants, tear gas or kinetic impact projectiles are used in a crowd by a law enforcement agency, the agency shall make efforts to notify emergency rooms in the vicinity of the type of handheld chemical incapacitants, tear gas or kinetic impact projectiles used.**

**(8) A law enforcement agency shall adopt policies requiring the cleanup of visible debris caused by the use of tear gas and kinetic impact projectiles within a reasonable time of the use of tear gas and kinetic impact projectiles.**

[(c)] (9) A law enforcement agency may not use [a sound device for crowd control for any purpose other than announcements] **electronically amplified noise-producing equipment for crowd management except for announcements or to facilitate movement of an emergency vehicle as allowed or required by ORS 820.300 or any other provision of law.** Whenever possible, a law enforcement agency shall provide announcements for purposes of crowd [control] **management** both audibly and visually.

[(3)] (10) When using **handheld** chemical incapacitants, **tear gas**, kinetic impact projectiles or [sound devices] **electronically amplified noise-producing equipment** in compliance with this section, and when it is possible to do so safely, a law enforcement agency:

- (a) Shall attempt to take injured persons to safety or allow injured persons to seek medical help.
- (b) May not prevent emergency medical services from reaching injured persons.
- (c) Shall take reasonable action to accommodate disabilities when issuing or enforcing orders to disperse.

(11) **This section does not prohibit a law enforcement agency from adopting more stringent policies than are required by this section for the use of chemical incapacitants, tear gas, kinetic impact projectiles and electronically amplified noise-producing equipment.**

[(4)] (12) A law enforcement agency shall inform federal law enforcement agencies of the requirements of this section.

**SECTION 4.** ORS 181A.710 is amended to read:

181A.710. (1) As used in this section, “law enforcement agency” means the Department of State Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the State of Oregon and a university, that maintains a law enforcement unit as defined in ORS 181A.355 (12)(a)(A).

(2) A law enforcement agency or a person acting on behalf of a law enforcement agency may not:

- (a) Use a proxy law enforcement agency to [enact] **use crowd management** measures that a court or statute has barred the law enforcement agency from using.
- (b) Act in concert with another law enforcement agency to engage in misconduct barred by a court order or statute.
- (3) Intentional violation of this section constitutes official misconduct in the second degree under ORS 162.405.

**SECTION 5. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.**

**Passed by House February 17, 2022**

**Repassed by House March 4, 2022**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Dan Rayfield, Speaker of House

**Passed by Senate March 3, 2022**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2022

**Approved:**

.....M.,....., 2022

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2022

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Shemia Fagan, Secretary of State

# EUGENE POLICE COMMISSION AGENDA ITEM SUMMARY



## Impact Weapons Policy (807) Final Review

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Meeting Date: December 8, 2022  
Department: Eugene Police Department  
[www.eugene-or.gov/policecommission](http://www.eugene-or.gov/policecommission)

Staff Contact: Sergeant Julie Smith  
Contact Telephone Number: 541-682-8427  
[JASmith@eugene-or.gov](mailto:JASmith@eugene-or.gov)

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### **ISSUE STATEMENT**

This agenda item is to conduct a final review of the Impact Weapons Policy 807.

### **BACKGROUND**

Policy (POM) 808 is being separated out to address Impact Weapons and Chemical Incapacitants as standalone policies.

Per recommendation from the Civilian Review Board in 2021, Policy 808 is being revised and Chemical Incapacitants and Impact Weapons are becoming policies on their own, rather than housed together with Handcuffing and Control Holds.

Furthermore, to comply with House Bill 4208 and Oregon Accreditation Alliance standards, Eugene Police has taken steps to clarify the use of Chemical Incapacitants for crowd control purposes. House Bill 4208 was incorporated in *ORS 181A.708*.

The term "tear gas" was originally housed on the last page of POM 808 - Handcuffing/ Control Holds and Impact Weapons. "Tear gas" is an old term which is no longer used by the Eugene Police Department. Moving forward, the term Chemical Incapacitants will be used to describe any munitions or crowd control tools. The Eugene Police Department does not maintain an inventory of, or use, Tear Gas.

POM 808 will now be three separate policies:

- POM 808 – Handcuff and Control Holds
- POM 805 – Chemical Incapacitants
- POM 807 – Impact Weapons

Policy 808 was last reviewed in 2014.

### **ATTACHMENTS:**

- A. Policy 807: Impact Weapons
- B. Oregon House Bill 4208

**POLICY  
807**

**EFFECTIVE  
DATE  
DRAFT 10-10-  
2022**

**Eugene  
Police Department**

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## **Impact Weapons**

### **807.1 PURPOSE AND SCOPE**

No policy, however specific, can substitute for good decision-making during use of force events. There is no way to specify the exact amount or type of force to be applied in a given situation. However, every member of the Department is expected to use this policy as a guideline for making well-informed and sound decisions in a professional and impartial manner, that are in accordance with *Policy 800 – Use of Force*. ~~This policy provides guidelines for the use and reporting of handcuff techniques, control holds, and impact weapons.~~

### **807.2 USE OF IMPACT WEAPONS**

- a. Department-approved impact weapons (ASP Baton, PR-24, straight baton) may be used:
- To overcome resistance by a person being taken into custody.
  - To protect the officer or another person against the use of force or an imminent threat of the use of force.
  - ~~As a reasonable use of force during crowd control activities.~~
- b. Impact weapons should not be used to strike persons engaged only in passive resistance, nor shall impact weapons be used punitively, or to intimidate or coerce subjects into doing anything, except to overcome their resistance to being taken into custody.

Striking a subject in the head or neck can potentially cause serious physical injury or death and therefore an intentional impact weapon strike to the head or neck is only authorized in situations where deadly force is warranted.

### **807.3 EXTENDED-RANGE IMPACT WEAPONS**

- a. Officers may only use extended-range impact weapons (~~to include: 40mm impact rounds, pepper ball, inert live) 40mm sponge round~~) in which they have been trained. The extended-range impact weapon system should not be deployed by an individual officer without lethal cover, or without a tactical plan.
- b. Only factory-loaded and department purchased and issued ammunition will be used with extended-range impact weapons.



- c. Officers should not deploy the extended-range impact weapons in a situation where the suspect is in danger of falling from a significant height, unless deadly physical force is authorized.
- d. Extended-range impact weapons should not be used for crowd dispersal unless an immediate risk of injury or significant property damage exists, and the deployment of the extended-range impact weapon can prevent it.

#### **807.4 TRAINING**

The Office of Professional Standards Lieutenant, in conjunction with the Sergeants of Defensive Tactics, Training and the Rangemaster will ensure that officers and supervisors receive annual training on the use of impact weapons.

ADD BLOCK

# A-Engrossed House Bill 4208

Ordered by the House June 26  
Including House Amendments dated June 26

Sponsored by Representative KOTEK; Representatives CLEM, HERNANDEZ, HOLVEY, LEWIS, MARSH, MITCHELL, PILUSO, SANCHEZ, WILDE (at the request of Joint Committee on the First Special Session of 2020)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits law enforcement agencies from using tear gas [*or from using long range acoustic devices or sound cannons.*] **for purposes of crowd control except in circumstances constituting riot.**

**Requires law enforcement agency to follow certain procedure when using tear gas in circumstances constituting riot.**

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the use of tools by law enforcement agencies; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Law enforcement agency" means the Department of State Police, the Department**  
6 **of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal**  
7 **corporation of the State of Oregon and a university, that maintains a law enforcement unit**  
8 **as defined in ORS 181A.355 (12)(a)(A).**

9 (b) **"Tear gas" means oleoresin capsicum or orthochlorobenzalmalononitrile, or other**  
10 **similar chemicals meant to accomplish the same effect, administered by any shell, cartridge**  
11 **or bomb capable of being discharged or exploded, when the discharge or explosion will cause**  
12 **or permit the release or emission of the chemicals.**

13 (2) **A law enforcement agency may not use tear gas for the purposes of crowd control**  
14 **except in circumstances constituting a riot, as described in ORS 166.015.**

15 (3) **Before using tear gas in circumstances constituting a riot, a law enforcement agency**  
16 **shall, in the following order:**

17 (a) **Announce the agency's intent to use tear gas;**

18 (b) **Allow sufficient time for individuals to evacuate the area; and**

19 (c) **Announce for a second time, immediately before using the tear gas, the agency's in-**  
20 **tent to use tear gas.**

21 **SECTION 2. This 2020 special session Act being necessary for the immediate preservation**  
22 **of the public peace, health and safety, an emergency is declared to exist, and this 2020 special**  
23 **session Act takes effect on its passage.**  
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**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.