

Seattle Police Department

Directive

Effective Date: 07/25/21

Directive Number 21-00023

Interim Policy

Military Equipment and Use of Force per House Bills 1054 and 1310

There has been much discussion over House Bills 1054 and 1310 and how they affect law enforcement's use of force and less lethal tools. Both laws go into effect on July 25, 2021, but some requirements go into effect at later dates that do not impact law enforcement field operations at this time.

Current SPD policy already covers many areas of both laws. This interim policy focuses on how HB1054 and HB1310 affect existing SPD policy in the short term.

1. HB1054 and Military Equipment

HB1054 prohibits law enforcement agencies from using any "military equipment". The bill includes "firearms and ammunition of .50 caliber or greater" in its definition of military equipment. As a result:

Effective 07/25/21 at 0000 hours and until further notice, officers will not deploy with 12ga shotguns during their shifts.

Officers will store these firearms in whatever secure location the officers normally use when not on duty. Further direction will follow with respect to returning these items to the armory.

2. HB1310 and Use of Force

HB1310 limits when officers may use physical force. Additions and changes affect only a small portion of SPD's use of force policy overall. This interim directive outlines where HB1310 fits in the context of existing SPD policy.

Seattle Police Department

HB1310 does not define “physical force”. When considering use of force in the context of HB1310, SPD employees will consider physical force to mean force that is reportable under Title 8.

Exception: Although SPD policy makes pointing a firearm reportable force under Title 8, it will not be considered physical force in the context of HB1310.

8.050 – Use of Force Definitions

Reasonable Care – the statutorily mandated requirement that peace officers act with reasonable care when carrying out their duties and, specifically, in assessing the decision to use force and in their use of force, including de-escalation tactics and alternatives to deadly force

8.100 – De-Escalation

Reasonable Care

Exhaust available and appropriate de-escalation tactics prior to using physical force, such as:

- Time, distance, and shielding;
- Designate one officer to communicate in order to avoid competing commands;
- Call for additional resources;
- Take as much time as necessary without using physical force or weapons;
- Leave the area if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed.

Use the least amount of physical force necessary to overcome resistance under the circumstances, which includes:

- A consideration of the characteristics and conditions of a person for the purpose of determining whether to use force against that person, and
- If force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose.

Seattle Police Department

Such characteristics and conditions may include that the person is:

- Visibly pregnant or states they are pregnant;
- Known to be a minor, objectively appears to be a minor, or states they are a minor;
- Known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined in RCW 74.34.020;
- Displaying signs of mental, behavioral, or physical impairments or disabilities;
- Experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs;
- Suicidal, has limited English proficiency, or is in the presence of children.

Terminate the use of physical force as soon as the necessity for such force ends.

When feasible, use available and appropriate less lethal weapons before using deadly force.

8.200 – Using Force

Physical Force

Except as otherwise provided under this policy, a peace officer may use physical force against a person when necessary to:

- Protect against criminal conduct where there is probable cause to make an arrest,
- Effect an arrest,
- Prevent an escape as defined under RCW chapter 9A.76, or
- Protect against an imminent threat of bodily injury to the peace officer, another person, or the person against whom force is being used.

Seattle Police Department

Absent an imminent threat, HB1310 does not allow for any use of physical force to detain uncooperative subjects without probable cause to arrest.

Officers may not use physical force to take someone into custody for a non-emergent civil detention order (ITA) or other civil order of apprehension where the person does not present an imminent threat of bodily injury.

Deadly Force

A peace officer may use deadly force against another person only when necessary to protect against an imminent threat of serious physical injury or death to the officer or another person.

Imminent Threat of Serious Physical Injury or Death—based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person

Necessary – under the totality of the circumstances, a reasonably effective alternative to the use of deadly force does not exist, and that the amount of force used was a reasonable and proportional response to the threat posed to the officer and others

Totality of the Circumstances – all facts known to the peace officer leading up to and at the time of the use of force, and includes the actions of the person against whom the peace officer uses such force, and the actions of the peace officer

8.300 – Use of Force Weapons and Tools

8.300-POL-1 Use of Force – Use of Patrol Canines

A peace officer may not use an unleashed police dog for the purpose of arresting or apprehending another person.

Seattle Police Department

Email: spd_aprs@seattle.gov

Phone: (206) 684-4116