

Washington State Office of the Attorney General

Model Use of Force Policy

Preliminary Draft

What is this document?

The Washington State Legislature required the Attorney General's Office (AGO) to develop a model policy on law enforcement use of force and de-escalation tactics consistent with new standards set by the Legislature. A model policy provides a guide or how-to manual to help law enforcement carry out the standards in their day-to-day duties.

The AGO released this draft to get input from the public before finalizing the policy.

What's next?

The final version of the policy will be published on July 1, 2022.

By December 1, 2022, the Legislature required all law enforcement agencies to adopt the model policy or adopt their own policy consistent with the standards.

By December 31, 2022, the AGO will publish on its website information about agencies' policies.



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Model Use of Force Policy

Purpose: This policy is intended to provide clarity to officers and promote safety for all by ensuring that all available and appropriate de-escalation techniques are used, physical force is used appropriately only when necessary, and the amount of physical force used is proportional to the threat or resistance the officer encounters as well as the seriousness of the law enforcement objective that is being served.

Core Principles

(1) **Sanctity of Human Life**

In serving the public, officers shall make every effort to preserve and protect human life. (RCW 10.120.010). Officers shall respect and uphold the dignity of all persons and use their authority in a bias-free manner.

(2) **Duty to De-Escalate**

When possible, officers shall use all de-escalation tactics that are available and appropriate under the circumstances prior to using physical force. (RCW 10.120.020 [2022 c 4 §3]).

(3) **Use the Least Amount of Physical Force Necessary to Overcome Resistance**

When using physical force, officers will use the least amount of physical force necessary to overcome actual resistance under the circumstances. (RCW 10.120.020).

(4) **Use Only Necessary, Reasonable and Proportional Physical Force**

Officers shall use the least amount of physical force that is necessary, reasonable and proportional to safely achieve the legitimate law enforcement objective under the circumstances. (RCW 10.120.010 [2022 c 80 §2]).

(5) **When Possible, Use Less Lethal Alternatives Before Deadly Force**

Whenever possible, use available and appropriate less lethal alternatives before using deadly force. (RCW 10.120.020).

(6) **Use Deadly Force Only When Necessary to Protect Against an Immediate Threat of Serious Physical Injury or Death**

Officers may use deadly force against another person only when necessary to protect against an immediate threat of serious physical injury or death to the officer or another person and must use reasonable care when determining whether to use deadly force. (RCW 10.120.020 [2022 c 80 §3 and 2022 c 4 § 3]).

(7) **Nothing Limits an Officer's Authority to Perform Community Caretaking Functions**

Nothing in this policy limits or restricts an officer's ability to respond to a call for community caretaking or protection of health and safety, and to use the appropriate and least amount of physical force to execute those functions. (RCW 10.120.020 [2022 c 4 §3]).

(8) **Consider Vulnerable Populations When Using Physical Force or Deadly Force Against Them**

Consider the characteristics and conditions of vulnerable individuals including children, elderly persons, pregnant women, limited English proficient speakers and those demonstrating mental, behavioral, physical, cognitive and perceptual impairments when determining the appropriate and least amount of physical force possible to effect a lawful purpose. (RCW 10.120.020).

(9) **Duty to Intervene and Duty to Report Wrongdoing**

If witnessing another officer engage in or attempt to engage in excessive use of force, officers shall intervene when in a position to do so to end or prevent the further use of excessive force. Officers who witness any wrongdoing committed by another officer or who had a good faith reasonable belief that another officer committed wrongdoing shall report such wrongdoing to the witnessing officer's supervisor. (RCW 10.93.190).

(10) **Duty to Render Medical Assistance**

At the earliest safe opportunity, officers shall request medical assistance and provide appropriate first aid to injured individuals at the level of their training.

(RCW 36.28A.445). Agencies shall also refer officers to the Washington State Criminal Justice Training Commission's (CJTC) First Aid Guidelines.

(11) Reporting and Reviewing Uses of Force

To assess agency policy development and training needs, every use of physical force and deadly force, as well as instances of pointing a firearm at a person, must be reported internally and receive meaningful review. For transparency, the law enforcement agency will also conduct an annual review and analysis of the overall use of force by the agency and provide this information to the public.

Agencies also have a duty report certain uses of force to the statewide use of force data program (See RCW 10.118.030 for reporting requirements.)

Considerations Governing All Uses of Physical Force

Critical Decision Making

- (1) Applying a critical decision-making framework, officers shall:
 - (a) begin assessment and planning prior to arriving at the scene;
 - (b) collect available information;
 - (c) assess situations, threats, and risks;
 - (d) identify options for conflict resolution;
 - (e) determine the best course of action; and
 - (f) review and re-assess the situation as it evolves.
- (2) Officers may increase the time available for critical decision-making by positioning an object between themselves and the subject, being aware of their surroundings, and waiting for backup and other resources, as available and appropriate.
- (3) Officers shall not jeopardize their own safety or the safety of others through tactical decisions that unreasonably place themselves or others at risk including, but not limited to, immediately approaching a person without proper evaluation of the situation, failing to leave sufficient space between an officer and the person, failing to give a person time to comply with commands, or escalating a situation.

De-Escalation

- (1) De-escalation tactics refer to actions used by an officer that are intended to slow down the pace of an event and minimize the likelihood of the need to use physical force while increasing the likelihood of a positive outcome.
- (2) When possible, officers shall use all de-escalation tactics that are available and appropriate under the circumstances before using any physical force. (RCW 10.120.020 [2022 c 4 §3]).
- (3) Depending on the circumstances, de-escalation tactics may include but are not limited to:
 - (a) Employing tactical positioning and repositioning to maintain the benefit of distance and cover;
 - (b) Placing barriers or using existing structures to provide a shield or other protection between officers and a person;
 - (c) Attempting to slow down or stabilize the situation to allow for the consideration and arrival of additional resources that may increase the likelihood of a successful outcome;
 - (d) Requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder, other behavior health professional, or back-up officers;
 - (e) Using clear instructions and verbal persuasion;
 - (f) Employing verbal and non-verbal communication techniques to calm a person (e.g., regulating tone and pitch, such as speaking slowly in a calm voice; reducing sensory distractions, such as bright flashing lights, sirens, or other loud noises; using non-aggressive stance and body language; and minimizing hand gestures);
 - (g) Seeking to communicate in non-verbal ways when verbal instructions would be inadequate (such as when the person does not speak English, or is unable to hear or understand instructions);
 - (h) Communicating in a way that is consistent with principles of procedural justice principles, including:
 - (i) clearly explaining the officers' actions and expectations;
 - (j) listening to the person's questions and concerns and responding respectfully;
 - (k) being neutral and fair when making decisions; and

- (l) treating all people with dignity and respect.
- (m) When there are multiple officers, designating one officer to communicate in order to avoid competing or confusing commands;
- (n) Exhibiting patience while using all available tactics and resources to provide as much time as needed to resolve the incident.

Duty to Use Reasonable Care

Officers have a duty to use reasonable care when using physical force or deadly force against another person. Reasonable care means that the officer shall:

- (1) When possible, use all de-escalation tactics that are available and appropriate under the circumstances before using physical force. (RCW 120.020.00 [2022 c 4 §3].
- (2) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use physical force against that person and, if physical force is necessary, determine the appropriate and least amount of physical force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person:
 - (o) Is visibly pregnant, or states that they are pregnant;
 - (p) Is known to be a minor, objectively appears to be a minor, or states that they are a minor;
 - (q) Is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined by RCW 3074.34.020;
 - (r) Displays signs of mental, behavioral, or physical impairments or disabilities;
 - (s) Is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs;
 - (t) Is suicidal;
 - (u) Has limited English proficiency; or
 - (v) Is in the presence of children. (RCW 10.120.020).
- (3) Terminate the use of physical force as soon as the necessity for such force ends. (RCW 10.120.020);

- (4) When possible, use less lethal alternatives that are available and appropriate under the circumstances before using deadly force. (RCW 10.120.020 [2022 c 4 §3]); and
- (5) Make less lethal alternatives issued to the officer reasonably available for his or her use. (RCW 10.120.020 [2022 c 4 §3]).

Use of Physical Force Shall be Necessary, Reasonable, Proportional, and For a Lawful Purpose

Law enforcement encounters rapidly evolve and are not static. Thus, officers must continuously assess the effectiveness, necessity, reasonableness and proportionality of their actions, including their tactical positioning, in order to decrease the likelihood of needing to use force for self-protection.

- (1) **Necessary** means that under the totality of the circumstances, a reasonably effective alternative to the use of physical force or deadly force does not appear to exist, and the type and amount of physical force or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. (RCW 10.110.010 c 80 §2).
- (2) **Reasonable** means that the decision of whether and how much physical force to use shall be evaluated based on the totality of circumstances known to the officer leading up to, and at the time of, the use of physical force, including the actions of the person against whom force is used and the seriousness of the law enforcement purpose. Determining whether physical force is reasonable includes assessing whether the officer made tactical decisions to minimize risk to themselves and others, used all de-escalation tactics available and appropriate under the circumstances prior to using physical force and exercised reasonable care when using physical force (RCW 10.110.010 c 80 §2).
- (3) **Proportional** means that the level of physical force applied must correspond to the threat or resistance the officer encounters as well as the seriousness of the law enforcement objective that is being served. The threat or resistance may change over the course of the incident. Proportional force does not require officers to use the same type or amount of physical force as the subject.

To assess whether a response is proportional to the threat or resistance being faced and the law enforcement objective, officers should consider:

- (a) Whether the law enforcement purpose, or the severity of the offense, justifies the use of physical force;
- (b) Whether the level of physical force is necessary to mitigate the threat, overcome resistance, and safely achieve a lawful objective;

- (c) Whether there is another, less injurious option that will allow the officer to achieve the same objective as effectively and safely; and
- (d) Whether the severity of the threat and the totality of the circumstances justify a particular force option.

Proportionality operates in addition to the requirement of necessity; thus, even when physical force is necessary to achieve a legitimate law enforcement objective, its use may be unreasonable or excessive if the harm it would cause is disproportionate to the threat, level of resistance, and the goal that officers seek to achieve.

- (4) **Use of Physical Force Must Be for a Lawful Purpose.** An officer may use physical force against a person to the extent necessary to:
- (a) Protect against an imminent threat of bodily injury to the officer, another person, or the person against whom physical force is being used. (RCW 10.120.020);
 - (b) Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense. (RCW 10.120.020 [2022 c 80 §3]);
 - (c) Effect an arrest. (RCW 10.120.020);
 - (d) Take a person into custody when authorized or directed by statute. (RCW 10.120.020 [2022 c 80 §3]);
 - (e) Prevent an escape as defined under chapter 9A.76 RCW. (RCW 10.120.020);
 - (f) Prevent a person from fleeing or stop a person who is actively fleeing a lawful temporary investigative detention, provided that the person has been given notice that he or she is being detained and is not free to leave. (RCW 10.120.020 [2022 c 80 §3]);
 - (g) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under chapter 10.77, 71.05, or 71.34 RCW. (RCW 10.120.020 [2022 c 4 §3]);
 - (h) Take a minor into protective custody when authorized or directed by statute. (RCW 10.120.020 [2022 c 4 §3]);
 - (i) Execute or enforce a court order authorizing or directing an officer to take a person into custody. (RCW 10.120.020 [2022 c 4 §3]);
 - (j) Execute a search warrant (RCW 10.120.020 [2022 c 4 §3]);

- (k) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written order where the court expressly authorizes an officer to use physical force to execute or enforce the directive or order. (RCW 10.120.020 [2022 c 4 §3]).
- (l) Execute any other community caretaking function, including but not limited to performing welfare checks, assisting other first responders and medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public. (RCW 10.120.020 [2022 c 4 §3]).

Duty to Intervene and Duty to Report Wrongdoing

If witnessing another officer engage in or attempt to engage in excessive use of force, officers shall intervene when in a position to do so to end or prevent the further use of excessive force. Officers who witness any wrongdoing committed by another officer or who had a good faith reasonable belief that another officer committed wrongdoing shall report such wrongdoing to the witnessing officer's supervisor. (RCW 10.93.190). (See WA State CJTC Duty to Intervene Model Policy).

Identification, Warning, and Opportunity to Comply Prior to the Use of Physical Force

When feasible, officers shall:

- (1) Identify themselves as law enforcement officers;
- (2) Attempt to determine whether the person has a special need, mental condition, physical limitation, developmental disability, or language barrier that may impact their ability to understand and comply with officer commands.
- (3) Provide clear instructions and warnings;
- (4) Warn a person that physical force will be used unless their resistance ceases; and
- (5) Give the person a reasonable opportunity to comply with the warning that physical force may be used.

Use of Chokeholds and Neck Restraints Prohibited

Chokeholds and neck restraints are prohibited under any and all circumstances. (RCW 10.116.020).

Prohibition on Unreasonable or Excessive Force

- (1) Subject to collective bargaining, an officer will be disciplined, up to and including termination, for the use of unreasonable or excessive force if:

- (a) They fail to use all de-escalation tactics that are available and appropriate under the circumstances before using any physical force (RCW 10.120.020 [2022 c 4 §3]);
- (b) They fail to use reasonable care when using physical force (RCW 10.120.020);
- (c) The type, degree or duration of physical force which was used is found to have been greater than that which was necessary, reasonable and proportional under the totality of the circumstances; or
- (d) They use physical force or the threat of force to punish, retaliate or unlawfully coerce.

Positional and Compression Asphyxiation

- (1) Officers must recognize the heightened risk of positional asphyxiation and compression asphyxiation during restraint and be alert to any actions that must be immediately taken to avoid or minimize the risk of asphyxiation. Positional asphyxia can occur when a person is restrained, handcuffed or left unattended in any position that impedes their ability to breathe normally, particularly in a prone position. If the person cannot escape from the position, death may occur very rapidly. Thus, in the course of using physical force, officers shall be alert to the following heightened risk factors for positional asphyxiation:
 - (a) alcohol or drug intoxication;
 - (b) possible mental health episode or incident;
 - (c) a substantially overweight individual;
 - (d) possible suffering of respiratory muscle fatigue (exhaustion);
 - (e) possible airway obstruction; and
 - (f) unconsciousness.
- (2) Officers shall take the following actions to reduce the risk of positional and compression asphyxiation:
 - (a) As soon as handcuffed or otherwise restrained, immediately roll a person to the side and move them to an upright position that does not impede the mechanism of normal breathing. This requirement is especially important when the person is handcuffed in the prone position.

- (b) Take care not to put sustained pressure on the chest, neck or back, including by sitting, kneeling, or standing, as breathing can be restricted even if the person is placed in the recovery position.
- (c) Continuously monitor the person's condition while being restrained, as death can occur suddenly and develop beyond the point of viable resuscitation within seconds.
- (d) Whenever possible during team restraint, designate a "Safety Officer," with the responsibility to monitor the health and welfare of the person during restraint.
- (e) Do not transport a restrained person in the prone position.
- (f) Monitor a restrained person prior to, during, and at the conclusion of the transport.

Spit Guards

- (1) A spit guard (sometimes referred to as "spit hood," "spit mask," "spit shield," or "spit sock,") is a woven mesh device which can be placed over a person's head and face with the intent of preventing or reducing the transmission of infectious disease through saliva, mucous, and blood. Given that the use of a spit guard may be traumatic to the wearer and may cause alarm to onlookers, this policy provides specific guidelines, but does not endorse their use.
- (2) Standard of Use:
 - (a) An officer may apply a spit guard when lawfully restraining or attempting to restrain an individual who is spitting or biting.
 - (b) Officers applying spit guards must ensure that the spit guard is fastened properly according to the manufacturer's instructions to allow for adequate ventilation so that the restrained person can breathe normally.
 - (c) Only officers who have successfully completed agency-approved training on application of a spit guard are authorized to use one.
 - (d) Officers who carry spit guards must also carry personal protective equipment (PPE). Before applying a spit guard to a subject, an officer must consider whether the objective would be served by applying PPE on themselves.
- (3) Restricted Use:

- (a) Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated prior to application of a spit guard.
 - (b) For individuals in mental health crisis, application of a spit guard may provoke an elevated level of distress. Officers should provide verbal reassurance and dynamically assess the situation with a view to removal as soon as appropriate.
- (4) Prohibited Uses. Spit guards shall not be applied in the following situations:
- (a) Where the restrained person is bleeding profusely from the area around the mouth or nose.
 - (b) On an individual who is actively vomiting. If a person vomits while wearing a spit guard, the spit guard should be promptly removed and discarded.
 - (c) On an individual known to have asthma or another medical condition that affects breathing, or who demonstrates symptoms of labored or distressed breathing.
 - (d) On children or anyone known to be or obviously appearing to be a juvenile.
 - (e) In the event of a medical emergency, spit guards should be removed immediately.
- (5) Prior to application of a spit guard, officers shall warn the individual and provide a reasonable time to comply with their commands. Officers shall communicate to the individual the reasons for the application of the spit guard, with the goal of maintaining the individual's dignity. The spit guard should be removed as soon as the threat of spitting or biting has ended.
- (6) After application of a spit guard, officers shall move the individual into a seated or side recovery position and shall continually monitor the individual until the spit guard is removed. Officers shall assist during the individual's movement due to the potential for impaired or distorted vision.
- (7) Application of a spit guard must be reported as a use of force.
- (8) Spit guards shall be discarded after each use.

Levels of Resistance and Force Options

The level of resistance that an officer encounters is a key factor in determining the level of physical force that is necessary, reasonable, and proportional. Although it is not possible to determine in advance the appropriate level of force is for every encounter, officers shall use the least amount of physical force necessary to overcome resistance under the circumstances. (RCW 10.120.020). Officers are not required to exhaust one type of force before moving to a greater force.

The following principles apply when determining the appropriate force response:

- (1) **Cooperative:** person offers no resistance. When dealing with a cooperative person, officers may respond with verbal communication, but shall not use physical force.
- (2) **Passive Noncompliant:** person does not respond to verbal commands but offers no physical form of resistance. Passive noncompliance may include, but not be limited to, going limp, standing stationary, or not moving. The person may also question an officer's actions.

When dealing with a passively non-compliant person, officers may rely on verbal communication techniques and the use of de minimis physical force, i.e., control holds and techniques to direct movement (e.g., push back, escort, lift, carry) or immobilize a person when these tactics are used in a manner that do not cause pain or injury.

- (3) **Active Resistance:** physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, or verbally or physically signaling an intention to avoid or prevent being taken into or retained in custody.

In addition to the options available in response to passive resistance, officers may use control holds that may cause pain, takedowns, impact weapons applied with non-impact pressure, and Oleoresin Capsicum (OC) spray.

- (4) **Assaultive Resistance:** aggressive or combative actions such as attempting or threatening to assault the officer or another person, or verbally or physically displaying an intention to assault the officer or another person.

Officers may use all types of force options other than deadly force, including personal body weapons, impact weapon strikes, hobble restraints, electronic control weapons, canines, and impact projectiles, including specialty impact munitions.

Restriction: Impact weapon strikes to vital areas, including the head, neck, face, throat, spine, groin or kidney, as well as personal body weapon strikes to the head, are prohibited except in situations where deadly force is justified.

(5) **Life-Threatening Resistance:** any action likely to result in serious bodily injury or death of the officer or another person. An officer may use deadly force against another person only when necessary to protect against an immediate threat of serious physical injury or death to the officer or another person. (RCW 10.120.020). Deadly force includes:

- (a) Personal body weapon strikes to the head; impact weapon strikes to vital areas, including the head, neck, face, throat, spine, groin or kidney; or striking a person's head onto a hard, fixed object;
- (b) Discharge of a firearm loaded with ammunition; and
- (c) Intentionally striking with a vehicle a person who is not inside a vehicle.

Restriction: Officers shall not use deadly force against persons who present a danger only to themselves and do not pose an immediate threat of death or serious bodily injury to another person or officer.

Force Options in Detail

Officers will only use force tools and tactics that they have been properly trained to use.

Oleoresin Capsicum (OC) Spray

- (1) OC is an inflammatory agent that causes an intense burning sensation of the eyes, nose, mouth, and skin and is designed to temporarily incapacitate a person.
- (2) After the initial application of OC spray, each subsequent spray must also be necessary, reasonable, and proportional.
- (3) Restricted Uses of OC spray:
 - (a) OC spray should not be used around an open flame.
 - (b) OC spray is not appropriate in an enclosed, highly populated space where there is a likelihood of impacting uninvolved persons.
 - (c) OC spray should not be used on individuals in frail health, young children, the elderly, people who are visibly pregnant or state that they are pregnant, or persons with known respiratory conditions. In these cases, OC spray should only be used under exceptional circumstances involving imminent danger of serious bodily harm, where the use of OC is the only available force option.

- (4) Prohibited Uses: OC spray shall not be used against persons who are passively noncompliant or persons who are actively resistant but pose no threat of safety to the officer or others.
- (5) The effects of OC spray may be limited on assaultive mentally ill persons and persons under the influence of narcotics.
- (6) Mandatory First Aid: At the scene or as soon as possible, the officer shall administer first aid by:
 - (a) Seating the person exposed to OC in an upright position.
 - (b) Flushing their eyes out with clean water and ventilate with fresh air.
 - (c) Requesting appropriate medical assistance if the person appears to be in any physical distress or complains of injury or aggravation of a medical condition (e.g., asthma, emphysema, bronchitis).
 - (d) Continually monitoring the individual until the effects of the OC spray have completely diminished.
 - (e) Persons in custody exposed to OC spray must be transported in an upright position and monitored for any signs of distress. If the subject has difficulty breathing or shows any signs of medical distress, officers shall immediately seek medical assistance.

Hobble Restraint

- (9) A hobble restraint is a strap designed to restrain a person's feet.
- (10) Standard of Use: An officer may use a hobble restraint to overcome assaultive resistance or control an assaultive person.
- (11) Prohibited Use: Officers may not connect a hobble restraint to handcuffs or other types of restraints (i.e. "hog tie" an individual).
- (12) Once a hobble restraint is applied, officers shall place the person in an upright seated position or on the person's side and not face down.
- (13) Officers shall closely monitor individuals who have been placed in a hobble restraint.

Impact Weapons

- (1) Agency-issued and authorized impact weapons typically include batons and are designed to temporarily incapacitate a person.
- (2) Standard of Use: An impact weapon may be used to overcome resistance that is assaultive or life-threatening.

- (3) **Restricted Uses:** Officers shall not intentionally strike vital areas, including the head, neck, face, throat, spine, groin or kidney. The use of an impact weapon to a vital area has a likelihood of causing serious bodily injury or death. The intentional use of an impact weapon on these areas shall only be used in situations where deadly force is justified.
- (4) Officers shall reassess the effectiveness of impact weapon strikes after each strike and if not effective, move to another tactical or force option.
- (5) **Prohibited Uses:** Officers shall not use the impact weapon to intimidate a person (such as slapping the palm of their hand with an impact weapon) where the use of an impact weapon warning is not justified by the threat presented.
- (6) **Mandatory Medical Assessment:** In addition to the duty to provide appropriate first aid, an officer who strikes a person with an impact weapon shall ensure the person is assessed by a medical professional.

Projectile Impact Weapon

- (1) A Projectile Impact Weapon (PIW) is a less lethal weapon that fires a bean bag or other projectile designed to temporarily incapacitate a person.
- (2) **Standard of Use:** The PIW is designed to temporarily interrupt and/or control the behavior of an assaultive person who poses a threat of bodily harm to the safety of officer or others.
- (3) **Targeted Areas and Subsequent Rounds:**
 - (a) The preferred target area for a PIW is below the person's waist.
 - (b) The officer deploying the PIW shall assess the effect of the PIW after each shot. If subsequent PIW rounds are needed, the officer shall consider aiming at a different targeted area. The officer shall also reassess whether continued use of the PIW is effective and consider other force options.
- (4) **Restricted Uses.** The PIW should not be used in the following circumstances unless the use of deadly force is justified:
 - (a) Targeting a vital area such the head, neck, face, throat, spine, groin or kidney as this has a likelihood of causing serious bodily injury or death.
 - (b) On individuals in frail health, young children, or the elderly.
 - (c) The person is in an elevated position where a fall is likely to cause serious injury or death.

- (d) The person is visibly pregnant, or states that they are pregnant.
 - (e) At ranges of fewer than 15 feet.
- (5) Mandatory Medical Assessment. In addition to the duty to provide appropriate first aid, an officer who strikes a person with a PIW shall ensure the person is assessed by a medical professional.

Electronic Control Weapons (Tasers)

- (1) An electronic control weapon (ECW) is a portable device designed as a weapon capable of injuring, immobilizing, or inflicting pain on an individual by the discharge of electrical current.
- (2) Issuance and Carrying an ECW
 - (a) An approved ECW may only be used by officers who have successfully completed specialized training in its use and are recertified on a yearly basis.
 - (b) Officers issued an ECW are expected to carry them as a less lethal option.
 - (c) An ECW shall be carried in an approved holster on the side of the body opposite the duty handgun.
 - (d) Officers carrying an ECW shall perform a function check on the weapon and check remaining battery life prior to every shift. Officers should report any malfunction to a supervisor or other appropriate personnel.
- (3) Standards of Use
 - (a) An officer shall not hold a withdrawn ECW simultaneously with an unholstered firearm. Prior to deployment, the officer shall visually and physically confirm that the device selected is the ECW and not a firearm.
 - (b) Following a verbal warning, an ECW may be used to overcome assaultive resistance that threatens the safety of officers, him or herself or others.
 - (c) The ECW shall be used for one standard five-second cycle, after which the officer shall evaluate whether it would be appropriate to apply a subsequent five-second cycle. Because exposure to multiple cycles of the ECW increases the risk of serious bodily injury or death, use of the ECW shall be limited to a total of 15 seconds (three five-second cycles).
 - (d) Each subsequent application of an ECW must be necessary, reasonable, and proportional. Officers must be able to clearly articulate and

document the justification for each individual application of the ECW. Officers should consider these factors before repeated applications:

- (i) Whether the probes have effectively attached to the person;
- (ii) Whether the ECW or cartridge has malfunctioned;
- (iii) Whether the person has been given sufficient time to comply with commands; and
- (iv) Whether another force or tactical option may be more effective.

(4) Target Areas

Officers should target a person's lower center mass (below chest). An officer shall not intentionally target a person's face, head, neck, chest, groin, or an area of known pre-existing injury or disability.

(5) Restricted Uses

- (a) A person's flight should not be the sole justification for using an ECW.
- (b) Restrictions on Simultaneous Use: Officers shall not deploy multiple ECWs at the same person, unless the first deployed weapon clearly fails.
- (c) Restriction on Use in Drive-Stun Mode: ECWs shall not be used in pain compliance (drive-stun) mode. ECWs can be used in drive-stun mode only when necessary to complete the incapacitation circuit where only one probe has attached to the person.
- (d) Restrictions on Use Against Vulnerable Populations: Officers shall be aware of the possible heightened risk of an adverse reaction from ECW use on certain persons. ECW shall not be deployed against the following vulnerable populations, except if the person is presenting a threat of immediate death or serious bodily harm to another person:
 - (i) A person known to be a minor, objectively appearing to be a minor, or who states that they are a minor;
 - (ii) Frail or small statured individuals (i.e., thin chest wall);
 - (iii) Those who are visibly pregnant, or state that they are pregnant
 - (iv) Elderly individuals;
 - (v) Known or visibly disabled persons; or
 - (vi) Individuals with known heart condition, including pacemakers.

- (6) Heightened Risk Involving Individuals in Behavioral Health Crisis and/or Under the Influence of Drugs or Alcohol: Officers shall consider the heightened risk of serious injury or death when using an ECW against individuals in a mental health crisis and/or individuals under the influence of drugs or intoxicated by alcohol and be able to articulate the justification for exposing a person to the increased risk.
- (7) Prohibited Uses:
 - (a) On a person who is handcuffed or otherwise restrained.
 - (b) On a person who is at an elevated location where a fall may cause substantial injury or death.
 - (c) On an operator in physical control of a vehicle in motion, including automobiles, trucks, motorcycles, ATVs, bicycles, and scooters.
 - (d) On a person who is in close proximity to a flammable gas or liquid such as at a gas station or involved in a vehicle collision with a fuel leak.
 - (e) To rouse unconscious, impaired, or intoxicated individuals.
- (8) Post-Deployment Medical Procedures
 - (a) Officers shall render aid to any person who was struck by an ECW, continuously monitor their condition, and either request EMS to respond or otherwise obtain medical assessment.
 - (b) ECW probes should be treated as a biohazard. Probes shall be removed by a paramedic or other medical professional.
 - (c) Persons who, are suspected of being under the influence of controlled substances and/or alcohol, may be pregnant, reasonably appear to be in need of medical attention, or request medical treatment should be transported to an emergency department for evaluation.
 - (d) Officers shall advise medical staff that an ECW was used on the person and relay any information about the ECW use and the person's medical condition.
- (11) Post-Deployment Reporting and Accountability: In addition to the provisions of the Use of Physical Force Reporting, Investigation, and Review section below, an ECW force investigation should include:
 - (a) Interviews of the person and all officers who discharged their ECWs;
 - (b) Location and interviews of witnesses (including other officers)
 - (c) Photographs of person and officer injuries;

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- (d) Photographs of cartridges/probes;
 - (e) Collection of ECW cartridges, probes, leads, car video, confetti tags;
 - (f) Copies of the ECW data download; and
 - (g) Collection, preservation and review of BWC or dash cam footage and any other video of the incident.
- (12) In addition to RCW 10.118.030 reporting requirements and the provisions of Use of Physical Force Reporting, Investigation, and Review section below, officer(s) deploying an ECW shall also document:
- (a) The number of ECW activations, total discharge duration, and justification if more than 3 cycles were discharged;
 - (b) The type of mode used (probe or drive stun);
 - (c) Location of the probe/ECW contacted the person;
 - (d) Type of clothing the probes encountered;
 - (e) Make, model, serial number of the ECW and its cartridges;
 - (f) Description of medical care provided;
 - (g) Relevant information to assess weapon effectiveness (i.e., whether probes contacted person, if not, why not (person's bulky clothing, person too far away etc.); and
 - (h) After-discharge actions taken by the officers.

Firearms

- (1) A firearm is a weapon carried by officers that meets the firearm specifications of their agency or that has been authorized as a specialty firearm by the leadership of the law enforcement agency.
- (2) Officers shall adhere to their agency's policy requirements for issuance, qualifications, and carrying a firearm.
- (3) Officers will only discharge firearms in situations where deadly force is permitted. Each discharge of the firearm must be justified.
- (4) Exhibiting, Drawing, and Pointing a Firearm
 - (a) Unnecessarily or prematurely drawing a firearm could limit an officer's alternatives in controlling a situation, may create unnecessary anxiety on

the part of members of the public, and could result in an unwarranted or unintentional discharge of the firearm.

- (b) An officer may exhibit, draw, or point a firearm in the line of duty when the officer makes reasonable observations based on the totality of the circumstances that suggest the situation may escalate to the point where deadly force would be authorized.
 - (c) When it is determined that the use of deadly force is not necessary, officers shall, as soon as practicable, secure or holster their firearms.
 - (d) Pointing a firearm at a person is a reportable use of force and its justification and circumstances shall be documented. (RCW 10.118.030).
- (5) When feasible, officers shall give a verbal warning that a firearm will be discharged and defer discharging the firearm for a reasonable amount of time to allow the person to comply with the warning.
- (6) Prior to the decision to use a firearm, officers shall consider field of fire, backdrop, bystanders, potential for ricochet, and other risks of life.
- (7) Restricted Use: Officer shall not use firearms as impact weapons except when deadly force is permitted
- (8) Discharging a Firearm at or from a Moving Vehicle
- (a) An officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. A vehicle is not considered a deadly weapon unless the operator is using the vehicle to seriously injure the officer or another person and no other reasonable means to avoid potential serious harm are immediately available to the officer. (RCW 10.116.060).
 - (b) When feasible, the officer shall attempt to move out of the path of a moving vehicle rather than discharge their weapon at the operator.
 - (c) Officers shall not intentionally place themselves in the path of, or reach inside, a moving vehicle.
 - (d) Officers shall not shoot at any part of a vehicle in an attempt to disable the vehicle.
 - (e) Officers shall not discharge a firearm from a moving vehicle unless a person is immediately threatening the officer or another person with deadly force.
- (9) Prohibited Uses
- (a) Firing a "warning shot;"

- (b) Use, including pointing a firearm, against persons who present a danger only to themselves and do not have the apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the officer or another person;
 - (c) Solely to protect property; and
 - (d) Without regard for the field of fire, backdrop, potential for ricochet, and other risks to bystanders.
- (10) Post-Deployment Reporting and Accountability
- (a) In addition to the provisions of the Use of Physical Force Reporting, Investigation, and Review section below, all intentional firearm discharges are to be reviewed by the Serious Incident Review Board as detailed below.
 - (b) Unintentional discharges shall also be reported, investigated, and reviewed according to the provisions in the Use of Physical Force Reporting section.

Use of Physical Force in Crowd Management Incidents

* The use of physical force in crowd management contexts raises some concerns unique to those situations not addressed in a standard use of force policy. The following model provisions should be incorporated into a law enforcement agency's broader policies on crowd management.

- (1) Purpose: The purpose of this policy is to provide guidance on use of physical force by officers in the specific context of crowd management incidents.
- (2) Mission: The mission of law enforcement in a crowd management incident is to facilitate free expression and freedom of assembly, de-escalate any violence, and resolve conflict. Police action in crowd management incidents shall be intended to prevent violence and restore order. Officers shall use the least amount of physical force necessary to overcome resistance under the circumstances. (RCW 10.120.020).

(3) Crowd Management Action:

Crowd management action may be taken to maintain or restore order, and may include the following strategies:

- (a) Monitoring with minimal police presence;

- (b) Monitoring with strong police presence, including use of crowd management tactics;
- (c) Selective arrest of those committing unlawful acts while preserving the rights of lawful individuals to demonstrate;
- (d) Issuance of a formal dispersal order; and
- (e) Continual attempts to de-escalate using crowd management tactics, considering all available resources and deployment tactics.

In considering strategies and tactics, officers should weigh the risk of harm resulting from officer action against the risk of harm that may otherwise occur or continue.

(4) Unlawfulness:

A crowd situation shall be considered a peaceful protest or demonstration when participants are exercising their rights to free speech in a lawful manner. In these instances, the police response shall be to facilitate the event without the use of physical force.

For purposes of this policy, physical force shall only be deployed when there is probable cause that a crowd – or one or more individuals within the crowd – has committed, is committing, or is about to commit a criminal offense, or for another lawful purpose outlined on page 9.

Whenever isolated unlawful activity by individuals or small groups in an otherwise peaceful assembly can be addressed through targeted enforcement, officers shall respond with crowd intervention tactics to intervene and remove law violators so that the peaceful assembly may proceed. Crowd intervention tactics are actions designed to facilitate continued exercise of constitutional rights by isolating and arresting law violators within an otherwise lawful assembly.

When acts or conduct within a crowd presents an imminent risk to public safety or large-scale property destruction appears likely, law enforcement may declare an unlawful assembly and issue a formal Dispersal Order.

Declaring a protest to be an unlawful assembly or a “riot” does not affect the requirement that each use of force must be necessary, reasonable, and proportional.

(5) Use of Physical Force:

Physical force should be used in crowd management only with clear and specific objectives. The type and scope of physical force used shall be at the discretion of the Incident Commander within the parameters of this policy and at the direction of the Field Commander, Squad, or Team Leader. The Incident

Commander shall affirmatively ensure that personnel are directed to end physical force when the objectives have been met.

Officers and commanders shall use all de-escalation tactics that are available and appropriate under the circumstances prior to using any physical force. (RCW 10.120.020). Officers will use the least amount of physical force necessary to overcome actual resistance under the circumstances to bring an incident or person under control and will terminate the use of force when necessity ends. (RCW 10.120.020).

(a) Passive Noncompliance

In situations where individuals are committing an unlawful act with passive noncompliance (e.g., sitting or lying down), a Field Commander, Squad, or Team Leader shall attempt to communicate with these individuals to reach a peaceful resolution. Control holds which are intended to cause pain, impact weapons, and chemical agents shall not be used on such passively resisting individuals.

(b) Baton

Officers shall not use batons to push a crowd prior to dispersal orders being given, and a reasonable time allowed to comply with such orders; this policy does not apply to officers using a baton to overcome assaultive resistance from a specific person who poses a threat to the safety of an officer or others.

Officers attempting to move a crowd or individuals using a baton shall not strike anyone who is unable to move back for reasons outside of their control (e.g., crowd surge, physical disability, physical barriers, etc.).

Officers shall not intentionally strike the head, neck, throat, kidneys, spin, or groin of any person when using crowd management baton techniques.

(6) Use of Specific Weapons. Guidelines and limitations for specific uses of less-lethal weapons are as follows:

(a) Projectile Impact Weapons

The use of Projectile Impact Weapons (PIW) against persons for the purposes of crowd management and crowd dispersals is prohibited.

This policy is not intended to prohibit officers from using a PIW in crowd control situations against a specific individual who is actively attacking an officer or another person, or when an armed person poses a threat to officers or other persons. However, officers shall carefully weigh the risk to bystanders and the feasibility of using other force techniques. Such

use shall be in compliance with previous section on Projectile Impact Weapons.

(b) Tear Gas and Other Chemical Agents

- (i) Law enforcement agencies may not use or authorize its officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded person, or hostage situation. (RCW 10.116.030).
- (ii) Prior to using tear gas, law enforcement agencies shall exhaust alternatives of the use of tear gas that are available and appropriate under the circumstances. (RCW 10.116.030).
- (iii) Tear gas shall only be deployed after receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used. (RCW 10.116.030).
- (iv) Announce the intent to use tear gas.
- (v) Allow sufficient time and space for persons to comply with the officer's directives. (RCW 10.116.030).
- (vi) In considering use of tear gas and other chemical agents, the Incident Commander should carefully weigh the risk of harm resulting from their use on the crowd as these tools may impact all persons in the area, including officers, as well as persons outside the immediate area. Prior to deployment of chemical agents, the Field Commander should ensure that personnel are properly equipped with protective gear, such as gas masks.
- (vii) Chemical Agents shall only be used by personnel authorized to carry and deploy them.
- (viii) After each deployment, the Incident Commander shall re-evaluate the scene to determine if additional deployment is needed.

(c) Other Less Lethal Munitions

- (i) Noise-flash incendiary devices, or "flashbangs," shall not be used for crowd management purposes.
- (ii) Non-chemical smoke shall only be used at the direction of the Incident Commander and by personnel authorized to carry and deploy it. After each deployment, the Incident Commander shall re-evaluate the scene to determine if additional deployment is necessary.

(d) Canines

The use of police K-9s for the purposes of crowd management and crowd dispersals is expressly prohibited. (WA Criminal Justice Training Commission Canine Model Policy)

(7) Medical Aid

At the earliest safe opportunity, officers shall request medical assistance and provide appropriate first aid to persons exposed to chemical agents and individuals who have been injured or who complain of pain from force application. (RCW 36.28A.445).

(8) Reporting

All uses of physical force that occur during the course of crowd management are to be reported, investigated, and reviewed in accordance with the policy on Reporting, Investigating, and Review as set forth below. The potentially large scale of such events, and the heightened potential for subjects of physical force to not end up in custody, shall not be treated as justification for dispensing with usual force review protocols.

Use of Force Reporting, Investigation, and Review

- (1) Purpose: The purpose of this policy is to provide instruction for reporting, investigating, and reviewing use of force incidents.
- (2) Policy: Law enforcement's authority to use physical force includes the duty to be accountable to the public it serves. To provide accountability, use of physical force reporting, investigation, and review shall be prompt, thorough, and accurate.
- (3) Officers shall document all uses of physical force, as well as pointing a firearm at a person. Compliant handcuffing is not a use of physical force; however, officers must document when the application of handcuffs causes pain, as well as abrasions, lacerations, bruises, or other injuries caused by handcuffs or handcuffing.
- (4) Responsibility for Reporting Use of Physical Force
 - (a) Officers shall notify their supervisor immediately following any use of physical force. This duty applies to the officer who used physical force. Those officers who witnessed a use of force shall also ensure that the force is reported to a supervisor. The duty to notify a supervisor following any use of physical force includes any complaint by the

person upon whom physical force was used or other individual's complaint or allegation of unreasonable or excessive force.

- (b) Except for uses of deadly force, where agencies may have report-writing protocols specific to deadly force incidents, each officer who uses physical force or is present at the scene where physical force is used shall submit a written use of force report before the end of the shift unless extenuating circumstances such as an injury to the officer precludes this. The extenuating circumstances delaying any use of physical force report shall be documented.

(5) Report Content

Officers who use physical force shall provide specific facts to explain their decision to employ a particular use of physical force and the reasonableness, necessity and proportionality of the physical force used.

Reports shall be descriptive, explain the details of the incident, and avoid generic or vague phrases for observed behavior such as "made a furtive movement" or "took a fighting stance."

Use of physical force reports shall include the following information:

- (a) Summary of the incident that explains the reason for the initial contact between the officer and the person upon whom physical force was used, that person(s)' and officer's actions leading up to and during the use of physical force, and the specific type and amount of physical force used;
- (b) De-escalation efforts used or attempted, or the reasons none were used or attempted;
- (c) Reason for each use and type of physical force, including but not limited to, any threat to the officer or another person or any basis for believing the person upon whom physical force was used was armed;
- (d) Whether other physical force or non-force tactical options were available;
- (e) The manner in which officer(s) identified themselves;
- (f) Any warning provided and time to comply before physical force was used, or the reasons none were provided;
- (g) Names and agencies of involved and witness officers;
- (h) Names and contact information of civilian witnesses;

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- (i) Officer's status at time of the incident (i.e., uniform or plainclothes, marked or unmarked vehicle, alone or accompanied by other officers);
 - (j) Officer's age, sex, race, ethnicity, and years of service;
 - (k) The person upon whom physical force was used information: name, age, sex, race, and ethnicity, if known;
 - (l) Size and build of person upon whom physical force was used in relation to the officer;
 - (m) Any evidence that the person upon whom physical force was used was experiencing a behavioral health crisis;
 - (n) Other information about the characteristics and condition of the person upon physical force was used, including whether they appeared to be pregnant, a minor, a vulnerable adult; displayed signs of impairment or disability; had limited English proficiency; or were in the presence of children;
 - (o) Facts supporting a detention, arrest or enforcement action, when applicable;
 - (p) Whether backup was requested and if so, when it arrived;
 - (q) Description of any injuries or complaints of injuries to the officer, the person upon whom physical force was used or witness;
 - (r) Medical treatment received or declined by the officer, the person upon whom physical force was used or witness; and
 - (s) Notification to a supervisor and whether a supervisor responded to the scene or was consulted before or during the incident.
- (6) Witness officers shall also provide a use of physical force report documenting their observations and actions. Officers present at the time physical force was used shall also provide a use of physical force report even if they did not witness the actual use of physical force. Their statement should describe their role and any information they saw and heard.
- (7) Supervisor Responsibilities On-Scene

When notified of a use of physical force, the supervisor shall immediately respond to the scene and conduct an appropriate force investigation, except when the supervisor is notified of de minimis force. Although de minimis physical force shall be documented and reviewed in compliance with this policy, supervisors do not need to respond to the scene to conduct a force

investigation when de minimis physical force is the only force used during an incident. Supervisors are encouraged to respond to the scene even when de minimis physical force is reported to ensure continued de-escalation and stability of the scene.

For a use of physical force greater than de minimis physical force, if the supervisor is not available to respond immediately to the location, he/she will document the reason for the delayed response.

The supervisor is responsible for ensuring completion of the following steps:

- (a) Secure and manage the scene.
- (b) Ensure all injured parties receive timely medical assistance.
- (c) For incidents that result in death, serious bodily harm or great bodily harm, immediately contact the Office of Independent Investigations pursuant to procedures established by the director (RCW 43.102.120).
- (d) Identify all officers who were involved in the incident, witnessed the incident or were on the scene when it occurred. Discuss the general circumstances of the incident with the involved and witness officers as permitted and ensure completion of their written statements by the end of their shift unless an extenuating circumstance such as an officer injury precludes this.
- (e) Attempt to interview the individual upon whom physical force was used concerning the use of physical force and record the interview if possible.
- (f) Canvass for and interview civilian witnesses and include their written or recorded statement. Supervisors shall not detain or delay a witness who refuses to remain at the scene; however, the witness' physical description, contact information, other identifiers (i.e., driver's license), and any witness statements shall be documented.
- (g) Document injuries and medical treatment provided or declined.
- (h) Photographs all injuries or claims of injuries.
- (i) When practicable, either photograph or designate an officer to photograph the scene to depict lighting, weather, vehicle placement, point of cover, or other relevant information.
- (j) If officers are outfitted with body worn cameras, obtain and review relevant footage of the use of physical force incident.
- (k) Ensure that all evidence relating to the use physical of force is canvassed, collected and documented. Identify any other video that may have captured the contact, including surveillance and privately-

owned home cameras in the area, document locations, and attempt to review and retrieve the footage. If unable to view or retrieve, document the reason why. If none is discovered, document that none was found.

- (l) Identify medical personnel who evaluated or provided treatment to the person upon whom physical force was used or officer.
 - (m) Any complaint of misconduct by the person upon whom physical force was used or other individuals shall be received, documented and investigated according to the agency's complaint procedures.
 - (n) Any misconduct or potential criminal conduct shall be immediately reported to the appropriate command staff and investigative body.
- (8) The supervisor shall notify immediately the appropriate command staff in cases involving injury or complaint of injury, hospitalization, or death of a person resulting from an officer's use of physical force.
- (9) A supervisor who used physical force or witnessed, directed, or ordered a use of physical force shall not perform the functions and responsibilities of the reviewing supervisor or investigating supervisor for the incident. When this situation occurs, a non-involved supervisor should be assigned to perform the functions and responsibilities of the reviewing or investigating supervisor.
- (10) Supervisor Responsibilities: Post-Scene Review
- (a) Supervisors shall timely review all documents and evidence of the force incident to ensure their completeness, accuracy and timeliness. Supervisors shall document what actions they took during their review. (i.e., a review of all available reports, agency-recorded video, third party video, witness statements, photographs, other investigatory information or observations.)
 - (b) Supervisors shall return incomplete or inadequate use of force reports for additional details or clarification.
 - (c) Supervisors shall make an initial recommendation whether the use of force complied with agency policy. Supervisors shall prepare a narrative explaining the bases for that recommendation. Supervisors shall also identify any policy, training, tactical, supervision, planning and coordination, choice of force options, equipment, and post-incident conduct and performance issues raised by the incident and document these concerns and recommendations.
 - (d) The supervisor shall make proper notifications and referrals if their use of force review indicates an allegation of criminal conduct or potential

policy violation for either a criminal or formal administrative investigation, including reporting to the Criminal Justice Training Commission as required by RCW 43.101.135.

- (e) Supervisors shall complete their use of physical force review promptly and provide their evaluation and use of physical force reports and investigation for chain of command review. Unless extenuating circumstances exist, supervisors shall submit their review and supporting materials within three days of the incident.

(11) Command Review

- (a) Every reviewer in the chain of command is responsible for ensuring the accuracy, completion, and timeliness of the use of force reports and investigation. Each reviewer shall document their opinion as to whether the use of physical force complied with agency policy and identify any policy, training, tactical, equipment, or post-incident issues raised by the incident and document their concerns and recommendations.
- (b) Ultimately, the head of the agency or a designee shall determine whether the use of physical force was consistent with the agency's policy and ensure that any policy, training, tactical, supervision, planning and coordination, choice of force options, equipment, and post-incident conduct and performance issues raised by the incident are addressed.
- (c) Administrative Investigation of Deadly Force and Serious Incident Review Board

Separate and distinct from the criminal investigation of officer involved use of deadly force incidents conducted by the Office of Independent Investigations established by Chapter 43.102 RCW, or the Independent Investigative Team established by WAC 139-12, the involved agency shall conduct a timely administrative investigation and review of deadly force incidents to determine compliance with agency policy and procedures. Upon completion of the administrative investigation, the involved agency should convene a Serious Incident Review Board.

Serious Incident Review Board

Each law enforcement agency should have a process to review serious incidents, including all uses of deadly force and any incident in which a person dies while in custody. The purpose of the review is to objectively evaluate the incident to ensure that officers used their authority lawfully and in a manner that is consistent with the agency's expectations, training, and policy.

This internal review process should be in addition to any other investigation conducted by the Office of Independent Investigations, the Independent Investigative Team, or other outside entity that has jurisdiction over the investigation or evaluation of the incident.

The Serious Incident Review Board may be convened to review the circumstances surrounding any use of physical force, at the discretion of the agency and its leadership.

(1) Composition

At a minimum, the Board should be comprised of:

- (a) The leader of the agency or his or her high-ranking designee(s);
- (b) Another command staff member not involved in the incident; and
- (c) Supervisory personnel from Training.

(2) Scope and Responsibilities

The Serious Incident Review Board is tasked with evaluating all aspects of the incident and making recommendations from the perspectives of tactics, training, policy, and equipment.

Areas the Board should consider include but are not limited to:

- (a) Tactical decision making, including communications and planning, that preceded the use of physical force;
- (b) Extent to which officers utilized de-escalation tactics;
- (c) Effectiveness of any on scene or remote supervision;
- (d) Effectiveness of radio (including dispatcher) communications;
- (e) Effectiveness and availability of appropriate equipment;
- (f) Whether current policy provided sufficient guidance to involved officers;
- (g) Sufficiency of current training to prepare officers for the circumstances presented;
- (h) Post-incident decision making, including how effectively the on-scene officers transitioned to rescue mode and provided medical attention;
- (i) Communication with paramedics and the speed with which the scene was secured;
- (j) Effectiveness of communication with the family of injured individuals regarding notification and any requests for access to the hospital;

- (k) Supervisory performance following the use of physical force, including evidence preservation and witness identification; and
 - (l) Quality of incident reports.
- (3) Action Items

The Review Board should have a formal process to document, implement, and monitor all recommendations and action items arising from the Board's discussions.

At the conclusion of each Review Board meeting, the Board should designate a member to debrief the involved officers, witness officers, and any on-scene supervisors regarding all issues identified by the Review Board.

Independent Audits of Force Incidents and Force Review Process

Agencies should consider engaging an independent auditor to review serious incidents that raise concerns internally or externally. Agencies should also consider periodically engaging an independent auditor to examine the degree to which the agency's use of force policies and expectations regarding the use of force by their officers are being implemented through training and the agency's force review process. The findings and recommendations of any independent auditors should be documented in a public report.

Agencies should provide unfettered access to all relevant documents to independent auditors conducting any such review or examination.

Additional Provisions

Training Division Review

An agency's training division shall review all use of force reports to determine trends and guide the development of in-service training.

Training

All officers and supervisors shall receive training consistent with this policy at least annually. Training should be a combination of classroom and scenario-based learning, including community partners when relevant and feasible and incorporating cultural competency to understand local populations and how they may perceive and interact with law enforcement. This policy shall be incorporated into defensive tactics curricula. Officers and supervisors shall also receive regular training on how to document, investigate and review use of force incidents.

Public Reporting of Use of Force Data

Law enforcement agencies shall comply with the statewide use of force data collection program. (RCW 10.118.030). Law enforcement agencies should also conduct their own annual review and analysis of their agency's use of force, including trends and patterns and provide this information to the public by posting this information on their website. Agencies should also include a link to the statewide use of force data program on their website.

Definitions

- (1) **Chokehold:** the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway. (RCW 10.116.020).
- (2) **Deadly force:** the intentional application of force using firearms or any other means reasonably likely to cause death or serious physical injury. (RCW 9A.16.010).
- (3) **De-escalation tactics:** actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. (RCW 10.120.010 [2022 c 4 §2]). De-escalation tactics are detailed in the section "De-escalation".
- (4) **De minimis physical force:** physical force meant to separate, guide, and/or control without the use of control techniques that are intended to or are reasonably likely to cause any pain or injury.
- (5) **Feasible:** reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.
- (6) **Flight:** an act or instance of running away in an effort to leave and intentionally evade law enforcement.
- (7) **Immediate threat of serious bodily 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 body injury to the peace officer or another person. (RCW 10.120.020 [2022 c 80 §3]).

- (8) **Law enforcement agency:** includes any “general authority Washington law enforcement agency” and any “limited authority Washington law enforcement agency” as defined by RCW 10.93.020.
- (9) **Less lethal alternatives:** include, but are not limited to, verbal warnings, de-escalation tactics, conducted energy weapons, devices that deploy oleoresin capsicum, batons, and beanbag rounds. (RCW 10.120.010).
- (10) **Neck restraint:** any vascular compression or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow. (RCW 10.116.020).
- (11) **Peace officer:** includes any “general authority Washington peace officer,” “limited authority Washington peace officer,” and “specially commissioned Washington peace officer” as those terms are defined in RCW 10.93.020. “Peace officer” does not include any corrections officer or other employee of a jail, correctional, or detention facility, but does include any community corrections officer. (RCW 10.120.010). Peace officers are referred to as officers in this policy.
- (12) **Personal body weapon:** An officer’s use of their body part, such as a hand, foot, knee, or leg to gain control of a person.
- (13) **Physical force:** any act reasonably likely to cause physical pain or injury or any other act exerted upon a person’s body to compel, control, constrain, or restrain the person’s movement. Physical force does not include pat-downs, incidental touching, verbal commands, or compliant handcuffing where there is no physical pain or injury. (RCW 10.120.010).
- (14) **Projectile Impact Weapon:** a less lethal weapon that fires projectiles such as 40mm sponge or foam rounds, Pepper Ball or similar projectile, blast balls or bean bags designed to temporarily incapacitate a person.
- (15) **Positional asphyxiation:** situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing.
- (16) **Tear gas:** Chloroacetophenone (CN), O-chlorobenzylidene malononitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury. “Tear gas” does not include oleoresin capsicum (OC). (RCW 10.116.030).
- (17) **Totality of the circumstances:** all facts known to the officer leading up to, and at the time of, the use of physical force, and includes the actions of the person against whom the officer uses such physical force, and the actions of the officer. (RCW 10.120.010).

References

Beyond reference and adherence to the statutory requirements recently enacted by the State Legislature, we consulted various sources in developing the Model Use of Force Policy. These include the policies of law enforcement agencies throughout the country as well as numerous reports and other materials. The following is a partial list of these resources.

Use of Force Policies

Baltimore Police Department (MD)

<https://www.powerdms.com/public/BALTIMOREMD/documents/51042>

Bellevue Police Department (WA) Policy 1.00.010

<https://public.powerdms.com/bellpd/tree/documents/1756>

Camden County Police Department (NJ)

<http://camdencountypd.org/wp-content/uploads/2021/12/USE-OF-FORCE-123121.pdf>

Cleveland Division of Police (OH)

https://www.clevelandohio.gov/sites/default/files/forms_publications/01.10.2018General.pdf?id=12398

King County Sheriff's Office (WA) (Chapter 6)

<https://public.powerdms.com/KCSO/tree/documents/1758025>

Las Vegas Metropolitan Police Department

<https://www.lvmpd.com/en-us/InternalOversightConstitutionalPolicing/Documents/PO-035-20%20Use%20of%20Force.pdf>

Los Angeles Police Department (CA) (Policy 556)

<https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2022/01/VOLU ME-1-word.pdf>

Metropolitan Police Department District of Columbia

https://go.mpdonline.com/GO/GO_901_07.pdf

New Jersey Office of the Attorney General Use of Force Policy (December 2020).

https://www.nj.gov/oag/force/docs/UOF-2022-0429_Use-of-Force-Policy.pdf

New Orleans Police Department (LA)

<https://www.nola.gov/getattachment/NOPD/Policies/Chapter-1-3-Use-of-Force-EFFECTIVE-4-01-18.pdf/>

Oakland Police Department (CA)

<https://cao-94612.s3.amazonaws.com/documents/Police-Commission-10.8.20-Agenda-Packet.pdf> (policy begins on page 22).

Olympia Police Department (WA)

https://cms7files.revize.com/olympia/Document_center/Services/Police/Accountability%20&%20Transparency/OPD-policy-use-of-force.pdf

Portland Police Bureau (OR)

<https://www.portlandoregon.gov/police/article/751998>

Port Angeles Police Department (WA) Policy 300

<https://wa-portangeles.civicplus.com/DocumentCenter/View/5344/Use-of-Force>

Santa Clara County Sheriff's Office (CA)

<https://countysheriff.sccgov.org/sites/g/files/exjcpb406/files/Policy/General%20Order%2012.00%20Use%20of%20Force.pdf>

Spokane Police Department (WA) Policy 301

<https://static.spokanecity.org/documents/police/accountability/police-policy-manual-2022-03-25.pdf>

San Francisco Police Department (CA)

https://www.sanfranciscopolice.org/sites/default/files/2021-02/SFPD.DGO_5.01.20210219.pdf

Seattle Police Department (WA) Sub-section 3.1

<https://www.seattle.gov/police-manual/title-8---use-of-force/8200---using-force>

Tacoma Police Department (WA)

https://www.cityoftacoma.org/UserFiles/Servers/Server_6/File/cms/Police/Tacoma_Police_Department_Policies.pdf

Vancouver Police Department (WA) Policy 300

<https://mrsc.org/getmedia/15081674-f565-4f51-b03d-73fd57801fe7/v35pdmanual.pdf.aspx>

Reports and Other Resources

An Integrated Approach to De-Escalation and Minimizing Use of Force, Police Executive Research Forum, August 2012.

DRAFT DOCUMENT RELEASED TO OBTAIN FEEDBACK

https://www.policeforum.org/assets/docs/Critical_Issues_Series/an%20integrated%20approach%20to%20de-escalation%20and%20minimizing%20use%20of%20force%202012.pdf

Campaign Zero Model Use of Force Policy, Campaign Zero.

<https://campaignzero.org/static/static/55ad38b1e4b0185f0285195f/t/5deffeb7e827c13873eaf07c/1576009400070/Campaign+Zero+Model+Use+of+Force+Policy.pdf>

Community Feedback and Final Recommendations for 8 Can't Wait Policy Initiatives

Commendations, City of Austin Office of Police Oversight, October 2021. https://joplin3-austin-gov-static.s3.amazonaws.com/production/media/documents/final_doc_Community_feedback_8CW.pdf

Electronic Control Weapons, International Association of Chiefs of Police, March 2018.

<https://www.theiacp.org/sites/default/files/2018-08/ECWPaper2018.pdf>

Electronic Control Weapon Guidelines, Police Executive Research Forum (PERF) and U.S. Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS), March 2011.

https://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf

Final Report of The President's Task Force on 21st Century Policing, President's Task Force on 21st Century Policing, Office of Community Oriented Policing Services (COPS), May 2015.

Guiding Principles on Use of Force, Police Executive Research Forum, March 2016.

<https://www.policeforum.org/assets/30%20guiding%20principles.pdf>

Model Policy Interactions with Individuals with Intellectual and Developmental Disabilities, International Association of Chiefs of Police August 2017.

<https://www.theiacp.org/resources/policy-center-resource/intellectual-and-developmental-disabilities>

National Consensus Policy and Discussion Paper on Use of Force, International Association of Chiefs of Police, et. al., July 2020.

<https://www.theiacp.org/resources/document/national-consensus-policy-and-discussion-paper-on-use-of-force>

Police Use of Force: An Examination of Modern Policing Practices, US Commission of Civil Rights, November 2018. <https://www.usccr.gov/files/pubs/2018/11-15-Police-Force.pdf>

Recommendations for Tacoma Police Department, 21 CP Solutions, March 2021. https://cityoftacoma.org/UserFiles/Servers/Server_6/File/cms/CMO/Transformation%20Updates/RecommendationsfortheTacomaPoliceDepartment-21CPSolutionsFinalReport-March%202021.pdf

Re-Engineering Training on Police Use of Force, Police Executive Research Forum, August 2015. <https://www.policeforum.org/assets/reengineeringtraining.pdf>

Report of the Maryland Attorney General's Taskforce on Electronic Weapons, Task Force on Electronic Weapons, Dec. 2009. <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/012000/012375/unrestricted/20100252e.pdf>

Reporting Use of Force, International Association of Chiefs of Police, March 2017. <https://www.theiacp.org/resources/policy-center-resource/reporting-use-of-force>

Review of the Vancouver, WA Police Department Final Report, Police Executive Research Forum, June 2020. https://www.cityofvancouver.us/sites/default/files/fileattachments/police_vpd/page/4248/1/vancouver_pd_final_report_june_2020.pdf

TASER Handheld Energy Weapon Warnings, Instructions and Information: Law Enforcement, Axon International, August 2021. https://axon-2.cdn.prismic.io/axon-2/19c2d86c-c983-4d9f-bac4-dd6bdb8ce29c_Law+Enforcement+Warnings+8_5x11.pdf