



Bellevue Police Department

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November 30, 2022

To: Washington State Attorney General's Office
From: Chief Wendell Shirley

Re: Model Use of Force Policy

By December 1, 2022, all law enforcement agencies shall either adopt policies consistent with the model policies developed by the attorney general or, if the agency did not adopt policies consistent with the model policies, provide notice to the attorney general stating the reasons for any departures and an explanation of how the agency's policies are consistent with RCW 10.120.020. The law (Chapter 10.120 RCW) does not define "consistent." The AGO instructed that agencies should rely on the commonly understood definition and offered the following as guidance: a policy need not be identical to the AGO model policy to be consistent with it; however, it should be substantially similar and free from significant deviations.

The Bellevue Police Department Policy Manual is consistent with RCW 10.120.020 (Permissible Uses of Force) and the statutory language has been incorporated into its Department Policy Manual. See provided URL link to the BPD Policy Manual - Chapter 1 (Use of Force) - <https://www.powerdms.com/public/bellpd> which was most recently modified as of June 22, 2022. Further, the Bellevue Police Department is accredited by the Commission for the Accreditation of Law Enforcement Agencies (CALEA) and has Advanced Law Enforcement status for its policy compliance with set law enforcement standards and best practices. The Department is also undergoing a transition to the Lexipol policy program. This transition will result in the current policies that are reflected in procedures, practices, and training being incorporated into the written Department Policy Manual. The Bellevue Police Department believes in good faith that its "policies" as reflected in its department Policy Manual, procedures, practices, and training are consistent with the Washington State Office of the Attorney General's (AGO) "Model Use of Force Policy" issued on July 1, 2022.

While the Bellevue Police Department believes in good faith that its policies as reflected in department policies, procedures, practices, and training are consistent with the overarching principles laid out in the AGO "Model Use of Force Policy" and consistent with RCW 10.120.020, there are two minor sentences where the Department did not adopt the AGO "Model Use of Force Policy":

1. The *exhibition and use* of an Electronic Control Weapon with the support (non-pistol firing) hand.
 - **AGO Model Policy**, Section 3(a) of Electronic Control Weapons (also known as Conducted Energy Weapons) states: "...in all but extreme circumstances, shall draw, exhibit and use the device with the support (non-pistol firing) hand."

- **The Bellevue Police Department's Policy** 02.00.060 (Special Firearms, Weapons and Less Lethal Devices) states: "The TASER may only be carried on the Non-Gun side of the body (belt holster or thigh rig) and set up for a Non-Gun hand draw. When carried on an External Vest the TASER may be securely holstered on either side of the vest but must be set up for a Non-Gun hand draw that is reviewed and approved by the PSU Captain or his/her designee."
- **Reason:** The Bellevue PD policy on drawing, **exhibition and use** is in line with the model policies for Electronic Control Weapons issued by both the International Association of Chiefs of Police (IACP) and the Police Executive Research Forum (PERF). PERF recommends allowing officers to switch to a strong hand hold after the support hand draw of an ECW. The Department's training on the use of ECWs requires the TASER (ECW) to be carried on the non-gun firing side for a non-gun hand draw to avoid weapon confusion. By carrying the TASER on the non-dominant side for a non-gun hand draw requires motor movements that are distinct from those required to draw and fire their firearm. Once the TASER is drawn with the non-gun hand (support /non-pistol firing hand), the Department does not mandate that the TASER be **used** only by the support hand. After drawn with the non-gun hand, officers are allowed the discretion to switch to exhibiting and using the Taser with the dominant hand for dexterity, more accurate targeting, and secure handling. The Bellevue Police Department policy is consistent with RCW 10.120.020 as it provides TASERS as less lethal alternatives reasonably available for officer use. Therefore, the Department is consistent with the Duty of Reasonable Care in RCW 10.120.020.

2. Officers shall not use firearms as impact weapons except when deadly force is permitted.

- **AGO Model Policy**, Section 6(a) of Firearms states: "Officers shall not use firearms as impact weapons except when deadly force is permitted."
- **The Bellevue Police Department's Policy** BPD Officers are trained to **not** use firearms as impact weapons, except when a subject is attempting to take the firearm or lethal force is permitted.
- **Reason:** The AGO Model Policy mandate that firearms **shall** not be used as impact weapons except when deadly force is permitted does not factor in exigent and rare scenarios when a subject may attempt to take/grab the officer's firearm or other rare scenario where a rifle or long-arm is not drawn (e.g. slung on side/back). The Model Policy's broad and absolute prohibition on the use of a firearm as an impact weapon, except when deadly force is permitted, removes an available less lethal tool from being potentially used in an exigent circumstance where a subject attempts to grab the officer's firearm. BPD Officers are still restricted to use any impact weapon in accordance with Department policy and training. This includes limiting strikes to non-vital areas of the body in non-deadly force scenarios (avoiding the head, neck, throat, or spine). The Department's policy is consistent with RCW 10.120.020 as it makes less lethal alternatives issued to the officer reasonably available for their use. It also allows for the potential, when possible, to use less lethal alternatives that are available and appropriate under the circumstances before using deadly force.

